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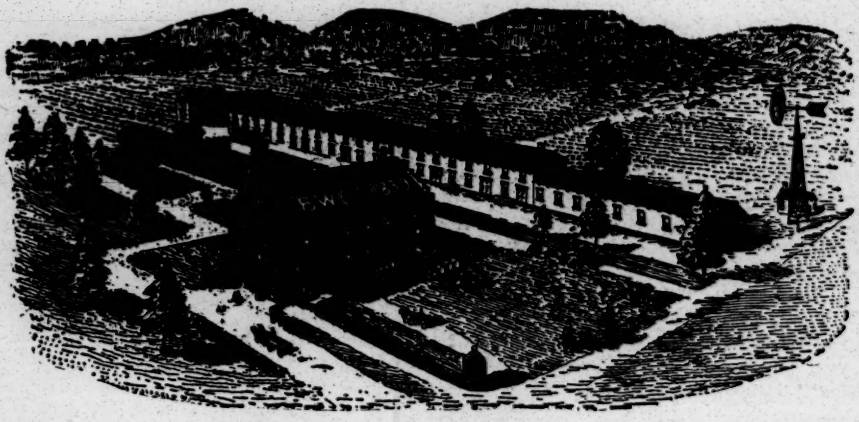

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FROM time to time the administrator of a priest's estate offers us a complete or substantially complete set of back volumes of the *Ecclesiastical Review*. At this writing there are available three such sets. Prospective purchasers of these back volumes are invited to write to the office of the *Review* concerning them.

* * *

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THE ECCLESIASTICAL REVIEW

VOLUME 101.—JULY, 1939.—NO. 1.

SUN TIME SIMPLIFIED.

THE ECCLESIASTICAL REVIEW on various occasions has gone more or less extensively into the subject of time. The most recent contributions on this subject were made by Mr. Hugh C. Mitchell, Instructor in Astronomy at Catholic University.[1]

In the first of his two articles Mr. Mitchell explained the different kinds of time, and appended to his explanation a table showing when exactly by Eastern Standard Time it was midnight by the sun. The table gave the values down to the seconds, and was constructed for the 75th meridian, the one from which Eastern Standard Time is calculated.

In his second contribution Mr. Mitchell published a much more extensive table, in which the time could be found for any degree of longitude in the five standard-time zones of America.

There were two difficulties about these tables. They were drawn up for the years in which they were published; and they were rather too cumbersome to be conveniently carried about on one's person: unless, of course, one desired to walk around with a copy of the REVIEW in his hip pocket, which might perhaps enhance his reputation for learning, but would not contribute much to the regularity of his silhouette.

It is the purpose of the present article to offer an approximate table of values for sun time which can readily be transferred to a 3×5 record card and which is correct to within a minute for any year of the calendar.

[1] May, 1931, p. 491: "What Time is It? Midnight and Fasting." January, 1934, p. 77: "True Sun Midnight as Shown on Your Watch."

But it may be advisable first to give a brief review of the whole subject. Mr. Mitchell did this extremely well in his contributions. The only reason for again presenting some of the matter here is to give the background for the table concluding this article and possibly to assist in making the whole subject (at times a very befuddling and befuddled one) still clearer.

Canon 33 of the Code says that in the private celebration of Mass and recitation of the breviary, as also in the reception of Holy Communion and in observing the laws of fast and abstinence, one may follow the local true time, or the mean time, or the legal time, or any other extraordinary method of keeping time. The most frequent application of this is the decision as to how long one may eat after twelve o'clock midnight and still receive or celebrate in the morning.

Suppose we start with our watches, disregarding at once daylight saving time, which simply adds an hour to the borderline in which we need not fast.

The time on our watches is standard time. It is, therefore, the time of a definite meridian of longitude (Eastern, 75°; Central, 90°; Mountain, 105°; Pacific, 120°) observed over a wide area. Since the sun travels (apparently) westward in the sky, sunrise, noon, sunset, and all intermediate times are successively later with each change in longitude, or for each point westward, than they were at points eastward. For purposes of convenience, then, to prevent a person finding a different time in each place he travels to, one meridian is chosen for a wide band of territory, and the time for that meridian is then observed throughout the region.

The time on our watches is therefore not the true time of the place we are in, unless that place happens to be situated exactly on the standard meridian.

These standard meridians are 15° apart. The whole circumference of the earth is 360°. There are therefore 24 standard meridians. Since the sun (apparently) goes around the earth in 24 hours, it goes through one standard zone in one hour. There being 60 minutes in an hour and 15° in a zone, the sun travels through one degree of longitude in 4 minutes.

The standard meridians go north and south through the center (approximately) of the standard time zones. Since, as already stated, points westward of any given place are later and points

eastward earlier than the place chosen, one has merely to find out the difference in degrees of longitude between the place he is in and the standard meridian of his time zone, multiply the difference by 4, and subtract the product in minutes from the time of his watch if he is west, or add if he is east, in order to ascertain his real local time, as distinguished from the time of the standard meridian.

But we must now scrutinize this standard time on the standard meridian itself. Without going into a lot of astronomy, we may summarize the facts as follows. Sometimes the sun (apparently) goes faster, sometimes slower, along its path among the stars, since the earth, travelling around the sun not in a circle but in an ellipse, is at times farther from and at times nearer to the sun. Further, the sun at different times of the year is moving notably north and south in the sky, being at its farthest point north in mid-summer and farthest point south in mid-winter. Both these facts cause the length of the (24-hour-civil) day to vary. The variations accumulate and so bring about notable differences in the length of the day as measured by the actual passage of the sun overhead. The average length of the day calculated from these varying values is the measure of average, or mean, solar time. When calculated for a standard meridian, it is standard time.

Now for a few clarifying definitions.

The real time as measured by the actual position of the sun in the heavens is " true solar time," " sun time," the *tempus locale verum* of canon 33.

This time is also termed " apparent solar time," but such terminology, in the opinion of the writer, is misleading. It is presumably based on the fact that true solar time is calculated from the motion and position of the sun in the skies, which motion and position are apparent, not real, since actually the earth is moving, not the sun. But to use the adjectives " true " and " apparent " interchangeably to define the actual sun time is certainly misleading, if not contradictory. If the movements and position of the sun are only apparent, those movements and positions are none the less " true," " real," " actual " when used as the basis for the ascertaining of time. " True solar time " therefore seems to be the preferable terminology.

The average time as shown by a clock regulated for its geographical position (v. g., any clock with eastern standard time for the 75th meridian) is " mean solar time," " clock time," *tempus locale medium.*

Standard time anywhere in a standard time zone outside of the standard meridian itself would be an example of *tempus legale regionale.*

And daylight saving time would be an exemplification of *tempus legale extraordinarium.*

Canon law being what it is, and human nature being likewise, the whole problem of the " real time " with regard to fasting mostly resolves itself, as already mentioned, into this question: though the clock shows midnight, and we are bound to fast from midnight, how much after the clock midnight may we eat or drink and still keep our fast?

The correction for longitude has already been outlined. For places west of the standard meridian, the longitude will always produce an extra amount of time, since the mean solar time for such places will be behind the mean solar time of the standard meridian, and so the number of minutes corresponding to the geographical position will have to be added to the clock midnight. Thus, for a place 4° west of a standard meridian, the mean solar midnight will be at $12{:}00 + (4 \times 4)$, or 12:16.

In addition to this, the time may then be corrected so as to correspond to the true solar midnight for the place in question. This correction is given in the subjoined table.

For places east of the standard meridian, a correction for longitude is always a minus quantity, and will show the mean time for those places to be ahead of the standard time: actual mean midnight will come before the standard midnight shown on the watch. Consequently, no advantage in time is to be gained for places so situated by the longitudinal correction. But at certain periods of the year the limit for fasting may be prorogued, so to speak, by applying to the standard time the necessary correction for true sun time: for the time on the meridian of reference may be calculated to be either mean or true solar time.

The subjoined table is adapted from an old, but still useful, text on astronomy: *Astronomy Explained upon Sir Isaac Newton's Principles,* by James Ferguson, F.R.S.[2] The writer has

[2] London, 1795.

not come upon anything like it in any of two dozen modern texts. He has checked it with analogous tables in the *American Ephemeris and Nautical Almanac,* the *World Almanac,* etc., and found it to be correct to within a minute. This is ample precision for ecclesiastical purposes: moral certitude suffices, and an error of a minute or so may be disregarded. The table is drawn up for the second year after leap year, in order to be nearest the average, since leap year causes some dislocation in the relative position of dates, and so some variation in the figures. For values in between those indicated, one must interpolate. Thus, for a date half way between two of those given in the table, the time correction will be half way between the values corresponding to the two dates.

It may be noted parenthetically that this table is simply an approximation of what astronomers call the " equation of time," which may be defined generally as the difference between time by the clock (corrected for longitude) and time by the sun, or between true solar time and mean solar time. Authorities do not agree on the sign for the equation of time. Some define the latter as the difference between mean solar time and true solar time (mean minus true). Our table takes the equation as giving the difference between true solar time and mean solar time (true minus mean). This accords with the usage of the *American Ephemeris.* If the other definition is used, the signs in the table and the directions for its use must be reversed.

Now for the table. As already stated, it can be placed on one side of a 3×5 record card, especially if the months are designated merely by letters: J., F., etc.:

THE EQUATION OF TIME IN MINUTES FOR THE SECOND YEAR AFTER LEAP YEAR.

Jan. 1	— 4	Apr. 1	— 4	Aug. 9	— 5	27	+16
3	— 5	4	— 3	15	— 4	Nov. 15	+15
5	— 6	7	— 2	20	— 3	20	+14
7	— 7	11	— 1	24	— 2	24	+13
9	— 8	15	0	28	— 1	27	+12
12	— 9	*	——	31	0	30	+11
15	—10	19	+ 1	*	——	Dec. 2	+10
18	—11	24	+ 2	Sept. 3	+ 1	5	+ 9
21	—12	30	+ 3	6	+ 2	7	+ 8
25	—13	May 13	+ 4	9	+ 3	9	+ 7
31	—14	29	+ 3	12	+ 4	11	+ 6
Feb. 10	—15	June 5	+ 2	15	+ 5	13	+ 5
21	—14	10	+ 1	18	+ 6	16	+ 4
27	—13	15	0	21	+ 7	18	+ 3
Mar. 4	—12	*	——	24	+ 8	20	+ 2
8	—11	20	— 1	27	+ 9	22	+ 1
12	—10	25	— 2	30	+10	24	0
15	— 9	29	— 3	Oct. 3	+11	*	——
19	— 8	July 5	— 4	6	+12	26	— 1
22	— 7	11	— 5	10	+13	28	— 2
25	— 6	28	— 6	14	+14	30	— 3
28	— 5			19	+15		

On the other side of the record card should be placed the following

DIRECTIONS

1) To obtain the standard time at any place not on the standard meridian for any given moment of local mean solar time (e. g., midnight):

Find the longitude of the place, calculate the difference between that longitude and the longitude of the standard meridian for the time zone in which the place is situated (E. S. T., 75°; C. S. T., 90°; M. S. T., 105°; P. S. T., 120°; and multiply the difference by 4. Add the product to the given moment if the place is west of the standard meridian, subtract if east.

2) To obtain the local mean solar time at any place not on the standard meridian for any given moment of standard time:

Repeat the process of (1), but subtract the product from the given moment if the place is west, add if east.

3) To obtain the mean solar time (either standard or local) for any given moment of true solar time (e. g., midnight by the sun) on any date in the year:

Locate the date in the table and subtract algebraically from the given moment the minutes indicated for that date, interpolating where necessary.

4) To obtain true solar time for any given moment of mean solar time (standard or local) on any date in the year:

Locate the date in the table and add algebraically to the given moment the minutes indicated for that date, interpolating where necessary.

It may be objected that these directions are too long, and would not go very easily on a 3 × 5 card; and that, furthermore, all we are interested in is finding at what moment by our watches the real midnight occurs. But the directions can be easily abbreviated, once they are understood, and part of them can be omitted if they are deemed useless, as in this fashion:

How to Find the Time of True Solar Midnight

Correction for Longitude

Multiply distance in degrees from standard meridian by 4. Add product to 12:00 if west, subtract if east.

Correction for Sun

Locate date in table and subtract number of minutes indicated from midnight corrected for longitude; interpolating where necessary.

Now for a few examples.

a) A place is on the 78th meridian. When, in terms of standard time, is the local midnight by the mean solar time of that place?

The place is in the eastern standard zone, which observes the mean solar time for the 75th meridian. 78-75 = 3. 3 × 4 = 12. Since the place is west of the meridian, the 12 minutes must be added to 12:00, so that mean solar midnight in that places occurs at 12:12 E. S. T. Therefore people in this place may always follow the mean solar time for the place and eat until 12:12 without breaking their fast.

b) What is, in terms of standard time, the true solar time of midnight in this same place on 28 Jan. of any year?

The 28th day of January is half way between 25 January and 31 January in our table, so that its corresponding value is about half way between —13 and —14 or —13′ 30″. This amount,

by no. 3 of our directions, must be subtracted from the given moment of true solar time which we are trying to locate, and that given moment is midnight corrected for longitude, or 12:12. Hence, 12:12—(—13′ 13″)= 12:25:30, so that on 28 January in this place one may eat until 25½ minutes after midnight as shown on the watch without breaking his fast.

c) In this same place, what time is it on 10 October by the sun when the clock shows midnight?

By no. 2 of our directions, the correction for longitude in this case is to be subtracted from the given moment of standard time, so that the real time, corrected for locality, is 11:48.

On our table, the correction for 10 October is + 13, which must be added according to no. 4 of the directions. Whence 11:48 + 13 = 12:01, which is therefore the true solar time for the place and date in question when the clock shows midnight.

It has already been noted that this sort of calculation does not interest us particularly in ecclesiastical matters. What we want mostly is the clock time of a particular moment of sun time (usually midnight), and not vice versa.

d) On 27 October, what time may be followed in New York City to produce the latest moment at which one must begin the Eucharistic fast?

The longitude of New York is 73° 57′, and New York is in the eastern standard zone, which is measured from the 75th meridian. The difference in longitude is therefore a trifle over one degree, and the difference in time a trifle over four minutes. This amount, by direction no. 1, must be subtracted from 12:00, since New York is east of the standard meridian, with the result that midnight by local mean solar time is at 11:56 about. Hence, the correction for longitude is of no help, so we ignore it, and turn instead to the equation of time.

By our table, the correction for 27 October is + 12, and by direction no. 3 this value is to be subtracted from 12:00. Hence, the eastern standard time of true solar midnight, not corrected for longitude, is 11:44.

So the New Yorker, on this particular date, has nothing else to do but follow the clock for his fasting. The longitudinal correction will never be of any use to him, and the solar correction will only offer some leeway at certain times of the year.

EDWARD S. SCHWEGLER

North Collins, New York.

COMPULSORY BLOOD TESTS BEFORE MARRIAGE.

LAST SUMMER in the pages of *America*, Doctor Connell engaged in a discussion on the recently enacted law of New York State, called popularly the " blood test " law, which requires couples about to marry to give proof of their freedom from syphilis in a communicable stage.[1] He objected to the law on the grounds that it constituted an attempt on the part of civil authority to enact an impediment to marriage and was therefore an invasion of the Church's exclusive right to legislate for the marriage of baptized persons. This argument he has presented anew with great forcefulness and clarity in the December issue of THE ECCLESIASTICAL REVIEW, and in the April issue he has made a strong defence of his position against the objections of Dom Moore. We can only be gratified that the matter has been presented so ably.

It is with considerable diffidence that I wish to present a view which differs somewhat from that of Doctor Connell. He is a distinguished professor and writer. He is the author of a text-book of sacramental dogmatic theology which has been very well received both here and abroad. It might appear rash, therefore, to disagree with his conclusions on the question at issue. However, I believe that there is another aspect to the question, which Doctor Connell has not considered and which should be taken into account. We are not in a position to pass a definitive judgment on the matter until all the available evidence is at hand. Let me state clearly and definitely in the beginning that I readily endorse all that Doctor Connell has written in the first part of his article on the relative rights of the Church and the State over the marriage of the baptized. Certainly only the Church may define when divine law prohibits marriage; only the Church may enact matrimonial impediments. But I disagree with Doctor Connell in his application of these principles to the question at issue. 1. I do not believe

[1] I am confining my remarks to laws which require a premarital examination for syphilis, as exist in Connecticut, Illinois, Michigan, Wisconsin, New Hampshire, Kentucky, New York, Rhode Island, New Jersey, Oregon, Colorado, North Carolina, Indiana, North Dakota, Pennsylvania, South Dakota, Tennessee and West Virginia. There appears to have been little effort exerted as yet to require a special examination for gonorrhea or the other venereal diseases because of the unreliability of the standard tests and widespread objection to pelvic examination.

that the only moral obligation a syphilitic has before marriage is to inform the other party of his infectious condition. 2. I am of the opinion that civil authority may properly insist on the postponement of marriage until the disease has been rendered incommunicable. I trust that the reasons I adduce and the authorities I shall cite will give weight to these conclusions.

I.

Doctor Connell assumes that the only obligation a syphilitic has before marriage is to inform his future partner of his infection. He cites statements of Wernz-Vidal and Sabetti-Barrett. He could have also added the names of Payen, Chretien, and Alford.[2] All are of the opinion that a person free of the disease may consent to be exposed to the danger of infection. The underlying reason for this conclusion appears to be that the spiritual welfare of the syphilitic must be allowed to take precedence over bodily well-being, if the parties involved so desire. Let us for the moment prescind from the applicability of this reasoning to the question at issue and ask ourselves: How frequently does an individual marry a syphilitic *knowingly* and *willingly?* It is one thing to accept a principle theoretically in a text-book, but it is quite another to act on the supposition that it is apt to be verified in everyday life. First of all, it would appear from the statements of doctors and health officers that infected persons are very often ignorant of their condition. Dom Moore quotes a statement that " at least half of the patients with latent syphilis not only had no previous treatment but no knowledge of their infection " (April issue, p. 330). A syphilitic who marries in these circumstances may *subjectively* be excused from sin, but *objectively* his action is unjust. Again, how often will a person who is informed of a syphilitic's condition be willing to enter a contemplated marriage? There may be a few individuals who would go ahead with a marriage in such circumstances. But it may be safely stated that the average person would be utterly opposed to a marriage involving such risks and would quickly decline to be a " martyr," even for the other's spiritual welfare. And, as Doctor Connell has pointed

[2] Payen, *De Matrimonio* n. 537, 540 (Zi-ka-wei 1929); Chretien, *De Matrimonio,* p. 112 (Metis 1937); Alford, *Jus Matrimoniale Comparatum,* n. 209; 213; 325 (Roma 1937).

out, there could never be any obligation for this heroism. Finally, even if we admit that there may be some individuals who would be willing to marry despite the syphilitic infection of the other party, how often would their motive be one of Christian charity? A person may be excused from the normal obligation of safeguarding his health to aid one of his brethren. But surely he cannot be justified in disregarding this obligation for less worthy reasons.

Doctor Connell believes that the teaching of moralists on the lawfulness of conjugal intercourse, when one of the parties is infected with a communicable disease, can be urged in support of his contention. He quotes statements of Sabetti-Barrett, Davis, and Lehmkuhl who hold that marital relations are justified in certain exceptional instances. Doctor Connell admits that the two cases are not quite on a par, " for a more serious reason is needed to excuse the acquisition of conjugal rights by a diseased person than to justify the use of rights previously acquired " (December issue, p. 514). I believe there is another important factor which differentiates the cases. A married couple is actually cohabiting; they are sharing the intimacy of a common life. Consequently it will be more difficult for them to observe continence, and marital intercourse will be justified more frequently despite the existing syphilitic infection. Whereas in the case of the unmarried, the danger of incontinence is never so great. There may be rare instances when marriage is the only means available to avoid sin. But as a rule it is possible to obviate any immediate and proximate danger by special precautions. It is the duty of the individual to make an honest and sincere effort to take the proper safeguards. And unless that is done, an unmarried syphilitic can not claim that a marriage is necessary for his spiritual welfare.

Finally, Doctor Connell appears to dismiss any argument based on the welfare of future progeny, as though that consideration had no direct bearing on the question at issue. No doubt this contention is justifiable when the choice lies only between existence and non-existence of offspring. Existence must be regarded as the greater good both from the point of view of the Creator and the creature. And yet in the case at issue these are not the alternatives. In this instance the question is: Should there be *normal* children or *defective* children? In other words,

if the syphilitic undergoes the required treatment, the offspring of his marriage will be normal; if he does not, they will most likely be defective. What then is his obligation? Unless we are to reject the arguments used to prove the necessity of a permanent family and the sinfulness of intercourse outside of marriage, we shall have to conclude that future parents are bound to do what is reasonably necessary to procure the " well-being " of their offspring. As Dom Moore states: " It may be true that if a syphilitic child could choose, he might prefer to be born syphilitic rather than not born at all; but it is certainly true that if parents can choose between bearing healthy or syphilitic children, they have a duty to take measures to give birth to healthy children " (April issue, p. 329). The matter would be different if nothing could be done to render the infection incommunicable. But under the circumstances it does not appear too much to ask a syphilitic to make himself fit to become a parent. He may not be obliged to do this as a matter of justice; but certainly he is bound in charity.

Dom Moore has informed us that, according to the most recent medical opinion, " after vigorous and continuous treatment for 70 weeks and a further period of observation for a year or a year and a half in which no recrudescence of the infection appeared, one could be fairly certain of marrying and having a healthy progeny " (April issue, p. 328-329). Now this is a new factor in syphilitic infection to which I do not believe Doctor Connell has paid sufficient attention. I know that his article implies that he is acquainted with the fact that syphilis may be rendered non-infectious, but he has failed to take account of this in arriving at his conclusions. Likewise, it does not appear that the authorities he quotes have appreciated the importance of this fact in determining the obligation of a syphilitic. In fact Wernz-Vidal, whom Doctor Connell has cited, states in the paragraph preceding the citation: " . . . non tantum intelligitur vera et proprie dicta lepra et omnis morbus horridus et contagiosus velut epilepsia, syphilis, sed etiam . . . quaelibet gravis infirmitas (non transiens) *perpetua et vix curabilis,* qua saltem una pars est detenta." Evidently Vidal has not taken account of recent medical developments in his reëditing of Wernz's original statement. And yet no moral pronouncement is acceptable unless all the facts are considered. Moral principles

cannot vary, but the conclusions deduced from the principles may differ because of changing circumstances. It is one thing to define the obligation of one infected with an incurable disease, but it is quite another to judge the case of one whose infection can be rendered incommunicable within a reasonable period. It is for this reason that the views of two modern theologians deserve special attention. They are Ferreres and Ubach.[3] In discussing the question at issue, neither is satisfied with a brief comment. Both summarize the accepted medical opinion regarding the highly infectious and dangerous character of syphilis before stating their views on the moral obligation of a syphilitic. It is only when the deadly nature of the disease is well understood that one is in a position to define the duties of a syphilitic toward others. For that information we must rely on the testimony of informed and conscientious doctors and health officials.

The basic principle to which both authors appeal is that an individual is forbidden not only to take the life of another unjustly or to cause direct bodily injury, but also to become a menace to the health of another. Actual bodily harm and the proximate danger of it must be equally avoided. Ubach adds another reason which Dom Moore has also advanced: an individual is not free to endanger his health by marriage with a person suffering from a serious contagious disease. Ferreres is satisfied to enunciate the general principle: "Quare syphilide infecto non licet matrimonium contrahere." Ubach, however, explains and qualifies his view more carefully. It will help to clarify the issue if we examine his arguments in detail.

Marriage of a syphilitic to a person free of the disease is forbidden whenever their subsequent cohabitation and relationship would be unsafe for the healthy partner. In order to avert this danger, the syphilitic is obliged to submit to medical treatment before marriage. The length of time required for proper medical care will vary in individual cases. Ubach states that the average period will be about three years, though he admits that some will require a longer treatment and others a shorter period. At any rate, after having placed himself under the care of a competent physician, the syphilitic should faithfully follow the directions given him and await the assurance that marriage

[3] Ferreres, *Compendium Theologiae Moralis* I, 503-506 (Barcinone 1932); Ubach, *Theologia Moralis*, n. 614-615; 2517-2520 (Bonis Auris 1935).

may be safely entered. In this way Ubach upholds the rights of both partners. Even though a contemplated marriage may have to be postponed for a time, the syphilitic will be free eventually to exercise his natural right to marry. At the same time the right of the other partner to bodily well-being will not be violated. He will be protected from becoming the victim of his partner's ignorance or deceit.

Ubach, however, is not unmindful of the fact that the spiritual welfare of the syphilitic may not be overlooked. Bodily well-being may not be regarded as the principal concern of Christian morality. And Doctor Connell rightly insists on this basic principle. Accordingly, Ubach qualifies the general principle he had enunciated by making certain allowances for a syphilitic who would be forced to remain unmarried for a long period (*diu* is the word he uses) and would be *unable* to practise continence during the time necessary to render his infection incommunicable. In such circumstances his spiritual welfare would be endangered by reason of the long, enforced delay in marrying, and he has a right to protect himself. But how can this be done without nullifying completely the general principle already established? First of all, Ubach continues, there could be no objection if the syphilitic in question married a person already infected with the disease. For the only loss each would suffer would be the deprivation of the opportunity to be cured. And this would be compensated for by the cessation of the existing spiritual danger. More than that, a syphilitic in the circumstances already defined might even marry a person free of the disease who agreed to be subjected to the danger of infection, if thereby the syphilitic's spiritual welfare or some very important benefit ("aliave de causa valde gravi") might be assured. In other words, Christian charity might induce a person free of the disease to sacrifice his bodily health for the greater good of another.

Thus Ubach and Doctor Connell are guided by the same principle: spiritual welfare must supersede all else. But there is a very important difference in the conclusion each draws from it. Doctor Connell takes the view that a syphilitic may invoke the principle to justify his *immediate* marriage, as long as he has informed the other party of his infectious condition. Ubach would not allow the syphilitic off so easily. His immediate

obligation before marrying is to render his infection harmless for others by placing himself under the care of a physician. Only when he has done this is he within his rights in marrying. The only exception to be made to this rule is when an individual *cannot* be continent during a long, enforced celibacy while receiving treatment. In that case the syphilitic may marry without further delay. Unfortunately Ubach has not indicated how long a period of delay might justify this action. But from the context it would appear that the period he has in mind is considerably longer than that normally required. We should have to be informed by medical men how often cases of this nature are likely to arise.

Doctor Connell has cited canon 1038, which reserves to the Church all right to make an authoritative pronouncement as to when divine law forbids marriage, and has asked " where has it been declared that the natural law forbids the marriage of persons afflicted with social diseases? " (December issue, p. 515). Certainly there is no explicit pronouncement to this effect. But I do not believe that Doctor Connell can cite any official statement that requires a syphilitic to make his condition known before marriage. And yet no one can question that obligation. It follows logically from the principle that injustice must be avoided. For the same reason, since syphilitic infection can now be rendered incommunicable, a syphilitic has no longer any right to enter marriage until he has ceased to be a source of contagion for others. Otherwise he would almost certainly cause harm which he could reasonably prevent. And the other party of the contemplated marriage has no right to marry one who can infect others by sexual intercourse, for in doing so he would disregard the obligation of safeguarding his health. Exceptions may be allowed in rare instances, but the normal obligation appears to be evident.

One who accepts this conclusion is not forced to maintain that " the Catholic Church seems to have failed as the divinely established interpreter and guardian of God's law, by allowing for centuries something to be proposed to its members as licit which in reality is immoral " (April issue, p. 332). As long as syphilis was incurable, an infected individual had no further obligation in marrying than to inform the other party of his condition. There was nothing more that he could do, except

to remain celibate for his entire life. No one could be obliged to do that. But now that syphilis is a " curable " infection, it becomes the duty of a syphilitic to take the proper measures before marriage to prevent his condition from becoming harmful to others. It is for this reason that recourse may no longer be properly made to the Decretal ruling on the marriage of lepers: " Leprosi autem si continere nolunt, et aliquam, quae sibi nubere velit, invenerint, liberum est eis ad matrimonium convolare " (c. 2, X, de conjugio leprosorum, IV, 8). That principle was laid down for the case of an incurable disease. As De Angelis explained: " Notant hic Doctores cum Reiffenstuel quod dictum est de lepra dicendum esse de quovis alio morbo, puta paralysi, epilepsia, aliaque infirmitate incurabili propter identitatem rationis." [4] Wernz also interpreted the Decretal principle as applying to " quaelibet gravis infirmitas (non transiens) *perpetua* et *vix curabilis* ".[5] It is therefore no longer applicable to cases of syphilitic infection.

II.

Doctor Connell states in answer to Dom Moore: " Even if it were against the natural law for a person suffering from a social disease to contract marriage, only the Church, not the State, would have the right to make an authoritative pronouncement to that effect " (April issue, p. 332). He implies that, because the State has no right to teach when a baptized person is forbidden to marry, it may not act to prevent the individual from violating this obligation. There might be a moral obligation in the internal forum of conscience, but the State is not conceded the power to enforce that obligation in the external forum. I do not believe that this deduction is entirely correct. And I hope to show that there is sufficient authority for a different interpretation.

In both his original article and in his rebuttal, Doctor Connell concludes his remarks with a passage from the encyclical *Casti Connubii.* In this Pius XI condemns the advocate of eugenic laws which " prevent from marrying all those whom, even though naturally fit for marriage, they consider, according to the norms and conjectures of their investigations, would through

[4] *Praelectiones Juris Canonici,* l. iv, t. viii—1° (Roma: Parisiis 1880).

[5] *Jus Decretalium,* IV, 253 (Prato 1911).

hereditary transmission bring forth defective offspring." Doctor Connell regards this statement as a telling argument against any State intervention to interfere with the marriage of a syphilitic. But that would suppose that laws to prevent the transmission of syphilitic infection are merely eugenic laws intended solely for the welfare of future offspring. As a matter of fact, syphilis is communicated to others by infectious contact, and not by heredity. It will not merely affect children who *may* be procreated, but it is almost certainly to be transmitted to one's married partner. Therefore a law intended to prevent the spread of syphilis is not eugenic legislation, as that term is usually understood, but *health* legislation which endeavors to protect living persons. And in order to prove that this passage of the encyclical is not pertinent to the question at issue, I should like to refer to an explanation of it which Vermeersch gives in his brochure *What is Marriage?* [6]

Vermeersch asks the following question: " Admitting that the State has no right to forbid marriage permanently, can it forbid it temporarily to persons who, for a certain period, would be sources of infection to the persons they might marry? " (n. 126). This is exactly the question at issue. Vermeersch answers it as follows: " The State could exercise such power, at least by putting itself in agreement with the competent authority, which, in the case of baptized persons, is the Church ". Certainly the qualifying clause of the response must not be minimized. And, unfortunately, Vermeersch fails to clarify its exact meaning. One would like to know, for instance, in what way the State might put itself " in agreement " with the Church. Would specific approval of a particular measure be necessary, or would it suffice to respect the objections of the Church? Moreover, Vermeersch does not indicate which authority in the Church would have the right to examine the proposed legislation: the Holy See or the local hierarchy. But, notwithstanding certain difficulties of interpretation, it would appear that Vermeersch believes the State may take the initiative and act to prevent the transmission of an infectious disease through marriage. He does not favor the view that the State is compelled to stand by and do nothing, even though the Church has not taken action herself.

[6] *What is Marriage?* (translated by T. Lincoln Bouscaren, S.J.), America Press.

Doctor Connell repeatedly insists that his contention is proved conclusively by the provisions of canon 1038: " It belongs *only* to the supreme authority of the Church to declare authentically when the divine law impedes or invalidates matrimony. To the same authority it belongs *exclusively* to constitute other diriment or prohibitive matrimonial impediments for baptized persons by means of a universal or particular law." Nevertheless Gasparri in his commentary on this canon lays down a general principle that is at variance with the interpretation of Doctor Connell.[7] It will be well to quote Gasparri's statement of the principle and then consider his argument.

" At quamquam Princeps nequeat, radicali impossibilitate, pro suis subditis baptizatis impedimenta statuere, quae attingant validitatem aut etiam liceitatem vinculi per se inspectam, tamen potest, in nonnullis circumstantiis, ratione boni publici, urgendo naturae jus, matrimonium ad tempus prohibere vel aliquas determinare conditiones ab illis implendas, qui volunt matrimonium inire; . . ." In support of his interpretation Gasparri cites the analogous case of a father's right to supervise the marriage of a son. If a contemplated marriage would really be injurious to the interests of the family, the son in question would be obligated by natural law to postpone the marriage (unless a higher right of his own would perhaps be interfered with), or at least he would have the duty to take the necessary precautions to prevent the imminent harm. And in case he would be inclined to neglect this obligation, the father of the family would have the right to threaten a sanction of disinheritance. Likewise, Gasparri continues, natural law may oblige one to postpone a contemplated marriage which, because of certain circumstances, would be prejudicial to the public good, unless thereby a higher natural right of one's own would make the marriage necessary. And civil authority may intervene to enforce this obligation either by forbidding the marriage " pure et simpliciter " as long as the circumstances last or by demanding that certain conditions be fulfilled before the marriage is allowed to take place. In taking such action, the State does not introduce any new obligation; it merely enforces one that already exists. If marriage is contracted despite the obligation, it will

[7] *Tractatus Canonicus de Matrimonio* (editio nova ad mentem Codicis I. C.) n. 236.

therefore never be invalid and at times it may be entirely lawful, when the prohibition of natural law no longer exists.

Gasparri's contention is also defended by Cavagnis, the noted authority on *jus publicum*. He, too, recognizes the right of the State to prohibit marriage because of unusual circumstances. There is no need to analyze his statement on the question. It will suffice to quote his words in full. "Diximus: quidquid refertur non modo ad validitatem, sed etiam ad liceitatem vinculi per se inspectam; etenim aliae sunt dispositiones quae requiruntur pro ordinata et honesta susceptione alicujus sacramenti, et in genere pro cujuscumque negotii expeditione, attenta tantum rei natura; et aliae quae per accidens supervenire possunt ex extrinsecis adjunctis; judicium de illis vel ordinatio positiva, in re religiosa ad Ecclesiam spectat; quoad secundas locum habere potest et justum praeceptum alterius auctoritatis, puta patris familias aut principis, de cujus tamen justitia judicare semper spectat ad Ecclesiam, tanquam ad supremam moralitatis tribunal. Ex. gr. statuere quaenam requirantur pro recta missae auditione, ratione ipsius actus, ad Ecclesiam spectat; sed quando Ecclesiae praeceptum non urget, poterit pater familias justa de causa id interdicere filio, puta quia indiget ejus ministerio. Tunc actus fit illicitus, non ratione sui, sed per accidens ob extrinsecam circumstantiam, et praeceptum patris non est religiosum, ideoque non attingit auditionem missae quatenus actus est religiosus, sed est ob necessitatem familiarem; ideoque ejus transgressio offendit quidem pietatem seu obedientiam erga parentes, sed non religionem. Hinc male quis deduceret ex hoc accidentali et extrinseco jure, jus esse patrifamilias ordinandi rem religiosam, cum eam non attingat quatenus religio est, sed ratione circumstantiarum. Id et in re matrimoniali evenire potest. Hinc proprie dicta impedimenta matrimonii etiam impedientia ab Ecclesia declarantur vel constituuntur, quamvis ratione alterius virtutis possit aliquid induci et ab alia auctoritate. Sed semper spectat ad Ecclesiae judicium decernere an haec jure vel injuria interveniat. Hinc Ecclesia inter sua vetita, et deficientiam rationabilem consensus parentum pro minoribus recensuit." [8]

Neither Gasparri nor Cavagnis make any explicit reference to the question at issue. But the principle they defend is so broad

[8] Cavagnis, *Institutiones Juris Publici Ecclesiastici*, II, 188 (Romae 1883).

that there can be no doubt of its applicability to the marriage of a syphilitic. It harmonizes completely with the views of Ubach as to the syphilitic's duty before marriage. It is agreed that the natural right to marry may not be exercised in a way that would cause injury to others. Any such consequence must be duly avoided. And therefore the State may use its authority, even over baptized persons, to prevent injury from being inflicted. However, it may not go beyond the limits of natural law as defined by the Church in her official pronouncements and in the approved teaching of her theologians. There may be instances when the regulation of civil authority will not have to be observed, because a greater good must take precedence. Ubach lays down the conditions for this exception. And if the civil law makes no provision for waiving its requirements because of an emergency or other cause, a couple may be advised how they may contract marriage according to the extraordinary form of canon 1098.[9] But outside of these rare instances, there appears to be sufficient reason and authority to uphold the right of the State to compel a syphilitic to postpone marriage until his infection is no longer communicable to others.

It has been said that we of this country are placing too much emphasis upon the enactment of law as a means of reform. Often we seem to have an idea that, if we can get laws enacted fast enough, we are bound to ameliorate existing conditions. A law is put on the statute books, and we think we have solved the problem. Yet no law will achieve its purpose, unless it is backed by a sound public opinion and, above all, unless it is wisely and sanely administered. A law can never be better than the people who obey it and the officers who enforce it. And certainly no one can safely predict whether the new laws intended to reduce the prevalence of syphilis will serve this purpose. As Catholics, we can only be disappointed that, in all the publicity about syphilis and its consequences, so little insistence is being placed on the fact that continence is the most certain preventive of venereal infection. For despite blood tests and pre-natal examinations, syphilis will not be "the next

[9] The Commission for the Interpretation of the Code has given an official response which would warrant this procedure. The laity could contract marriage without the local Ordinary or pastor being present. See Bouscaren, *Canon Law Digest*, I, p. 542.

disease to go" unless public authority uses its influence and power to promote continence among the unmarried and chaste fidelity among the married. Moreover, there are apparently some who question the value of laws which deny a license solely because of a positive blood test. Sometime ago Dr. Paul A. Leary, head of the dermatology section of Mayo Hospital, was quoted in the newspaper as stating that this test "has not proved adequate" and that laws based on its reliability are "doing an injustice to the individual and the community". And a recent article in the *Journal of the American Medical Association* (issue of 25 March, 1939) makes a similar criticism. In view of these facts, one is bound to be hesitant about predicting success for the new legislative program. The "blood test" laws have yet to prove their worth.

Nevertheless, prescinding from the question of the utility of these laws, I do not believe that *it is certain* that their enactment is a violation of the rights which the Church claims over the marriage of baptized persons. On the contrary, there appear to be very substantial reasons for the view that, by legislation of this kind, the State is merely enforcing an obligation already incumbent on the syphilitic by natural law. That is not equivalent to the enactment of a direct impediment whereby an entirely new obligation is introduced.

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REPLY TO DR. DONNELLY.

I am grateful to Dr. Donnelly for his courteous and detailed comments on my articles in THE ECCLESIASTICAL REVIEW for December 1938 and April 1939 concerning the power of the state to prohibit persons afflicted with venereal diseases from marrying. Dr. Donnelly's objections afford me the opportunity of developing certain aspects of the subject which limitation of space obliged me to omit or to curtail in my previous papers; and I am confident that the open and frank discussion of these phases of a vital question by Dr. Donnelly and myself will help to clarify the issue in the minds of our readers.

Let me briefly state my case. I contend that the laws, already passed in some States and pending in others, which forbid per-

sons suffering from syphilis to marry, infringe on the authority of the Catholic Church inasmuch as they extend to baptized persons. For only the Catholic Church has the right to establish impediments over and above the natural law for the valid and lawful marriage of the baptized. The basic reason for this exclusive right of the Church is that the marriage of every baptized person is either a sacrament (if he marries another baptized person) or a *res sacra* (if he marries an unbaptized person), and the Church alone has jurisdiction over the sacraments and over the *res sacrae* of the baptized. This doctrine has often been asserted in authoritative pronouncements of the Holy See, and is explicitly stated in the Code of Canon Law (canon 1038, § 2). Now, I believe that the State laws in question are an attempt on the part of the civil authority to establish an impediment (either diriment or merely prohibitive) over and above the requirements of the natural law, extending to baptized persons; consequently, these laws trespass on the divinely granted jurisdiction of the Catholic Church.

In my first article I said: "The argument that seems to be most weighty in favor of the state's power to pass eugenic legislation takes its stand on the natural law. It is proposed thus: The state may enforce the natural law governing marriage, as it does when it prohibits polygamous unions or punishes adultery. But it is against the natural law for a person afflicted with a communicable social disease to marry, because the usual consequences of such a union are the infection of the healthy consort and the procreation of diseased offspring. Consequently, the state may suspend the marriage of diseased persons until their cure is attested." [1]

This is substantially the argument employed by Dr. Donnelly. In replying to his objections I shall follow as closely as possible the order in which he presents his arguments.

I.

1. Dr. Donnelly says: "Dr. Connell assumes that the only obligation a syphilitic has before marriage is to inform his future partner of his infection".

On the contrary I stated quite explicitly that besides informing the future partner of his condition a syphilitic must have an

[1] ECCLESIASTICAL REVIEW, December, 1938, p. 513.

adequate reason for entering marriage before he is permitted to marry. In my first article I said: " The case of those wishing to be married is not exactly on a par with the case of those already married, *for a more serious reason is needed to excuse the acquisition of conjugal rights by a diseased person than to justify the use of rights previously acquired* " (ECCLESIASTICAL REVIEW, December, p. 514). And in the second article I said: " For centuries Catholic theologians have been teaching that marriage and the use of marriage are not prohibited by the divine law when one party is afflicted with a venereal disease, *provided the other party is informed of the presence of the disease and there is a proportionately justifying cause for the marriage or its use, such as the avoidance of incontinence.*" [2] Surely, in view of such statements it is difficult to see how I can be said to assume " that the only obligation a syphilitic has before marriage is to inform his future partner of his infection ". It is evident that I hold that the syphilitic also has the obligation of making sure that he has a sufficient reason to justify the marriage.

2. Dr. Donnelly asks: " How often will a person who is informed of a syphilitic's condition be willing to enter a contemplated marriage? ", and answers: " It may be safely stated that the average person would be utterly opposed to a marriage involving such risks ".

On this point I quite agree with Dr. Donnelly. I do not think that one person in a hundred, enjoying good health, would willingly marry a syphilitic. But my conclusion is this: If we are to have civil laws to offset the transmission of syphilis through marriage, let the state content itself with legislating that prospective brides and bridegrooms be required to undergo a physical examination and each be informed of the other's condition, in such wise that if then they wish to marry, the state will not attempt to prevent them. As I stated in the ECCLESIASTICAL REVIEW for May (p. 445) this form of legislation is pending in Massachusetts. Now, this type of law is within the competency of the state, while at the same time, as Dr. Donnelly says, it possesses almost the same efficacy as the form of legislative enactment against which I am protesting as an encroachment on the Church's rights.

[2] *Ibid.*, April, p. 332.

I say " If we are to have civil laws, etc.", since even a statute demanding only examination and mutual notification is open to grave objections because of the untrustworthiness of the blood test and the facility with which a person can obtain a clean bill of health through bribery. However, these are objections against the *practicability* of such legislation, not against the *right* of the civil power to legislate in this way, which I do not question.

3. Dr. Donnelly asserts that continence is more easily practiced by an unmarried couple, since they are living apart, than by a husband and wife; consequently, the use of marriage will be justified more easily in the case of the latter than entrance into marriage by the former. In most cases, he concludes, an unmarried syphilitic can avoid sins of incontinence by the use of other means besides marriage, and he should attempt these means before claiming that marriage is necessary for his spiritual welfare.

As far as my thesis is concerned I can readily grant all this. I merely contend that the civil law, inasmuch as it does not provide for cases in which the marriage of a syphilitic is justifiable by the natural law, especially for reasons of a spiritual nature—even though such cases may be rare—is adding a marital prohibition beyond that imposed by the natural law. Now, in the case of baptized persons only the Church may do this.

Dr. Donnelly mentions only the danger of incontinence on the part of the syphilitic as a justifying reason for marriage. It is well to remember that other reasons may furnish adequate cause for entrance into the marital state, such as the avoidance of incontinence on the part of the healthy person, the legitimation of a child, the ending of a concubinage, the securing of property rights for a woman. A syphilitic might wish to marry for the second or fourth of these ends and at the same time be perfectly willing to forego conjugal intercourse until he is cured. In such circumstances Catholic theologians would hold that sufficient reason to justify the marriage is present, and that a civil law forbidding marriage to one so situated and so disposed would be an attempt to add an impediment to the requirements of the natural law.

4. Dr. Donnelly says: " Dr. Connell appears to dismiss any argument based on the welfare of future progeny as though that

consideration had no direct bearing on the question at issue. . . . In this instance the question is: Should there be normal children or defective children? "

Now, I explicitly mentioned " the physical afflictions that can ensue from the marriage of a diseased person both to the healthy consort *and to the offspring* ".[3] The rule governing this aspect of the matter is an application of the principle which I had just mentioned a few lines previously in the same paragraph —namely, that because of the great probability of defective children an adequate reason is required to justify the marriage of a syphilitic. But, as the majority of Catholic theologians contend, such a reason can be present at times, and then the evil effect of the marriage—the probability of defective children —can be *permitted*. Nor is Dr. Donnelly quite correct when he asserts that the choice involved is " between normal children and defective children ". When there is a justifying cause for the marriage of a syphilitic the choice is between *normal children minus some great good* and *defective children plus some great good*. Take the case of a syphilitic who will surely commit many sins of incontinence if he remains unmarried for several years in order that he may be cured and thus be able to beget normal children. The choice is between *normal children minus a great good* and *defective children plus a great good*—the great good being the preservation of a soul from many sins.

5. Dr. Donnelly believes that the older theologians were led to teach that a syphilitic may marry because of the prevailing view that syphilis was incurable. Later on in his article he comments thus on the Decretal ruling that permitted lepers to marry: " That principle was laid down for the case of an incurable disease. . . . It is therefore no longer applicable to cases of syphilitic infection ".

Now, while the older theologians regarded syphilis, like leprosy, as incurable—and consequently, in a particular case would have been more ready to permit marriage to a syphilitic than are present-day theologians—yet, the reason on which they based their teaching was not precisely the *incurableness of the disease* but rather the grave inconvenience of remaining unmarried *for a long time*. Thus, St. Alphonsus cites a number

[3] *Ibid.*, December, p. 515.

of authors who permit conjugal relations when one party is afflicted with leprosy, etc., and while they doubtless regarded these diseases as incurable, they base their decision, not on this supposition but on the difficulty involved in continence *for a long time*.[4] And so, even though syphilis is now regarded as curable after a three years' treatment, the argument of the older theologians is still applicable to the use of marriage and —for a proportionate reason—to the contracting of marriage.

Certainly, Dr. Donnelly's assertion that the supposed incurableness of a disease was the determining factor of the opinion of the older theologians is by no means proved in his paper. Furthermore, in this supposition, how can he account for the fact that even now, when syphilis is regarded as curable, there are reliable theologians who hold that a syphilitic may marry, presuming that the requisite conditions are verified?

6. Dr. Donnelly quotes Ferreres and Ubach as defending a view opposite to mine. The former I cited in my first article as differing from me.[5] I have contended only that the majority of theologians—not all—uphold my thesis. As to Ubach, he seems to hold the same view that I defend, though he words it somewhat differently. He says: "The marriage of a syphilitic with a healthy person is unlawful unless the other party is forewarned and there is a grave reason justifying his marriage with this person". I say: "The marriage of a syphilitic with a healthy person is lawful if the other party is forewarned and there is a grave reason justifying his marriage with this person". Where is the difference?

A point brought out by Ubach may aptly be quoted here. He says that physicians in forbidding marriage are inclined to adopt too severe a criterion, in that they regard only the harm that will befall the parties themselves or their offspring. But, he continues, moral theologians must consider also the causes proportionate to this harm, on account of which this harm can be permitted—such causes as the difficulty and the dangers of celibacy enforced for a long time.[6] I quote this with a reminder to my readers that our legislators base their enactments on the

[4] *Theol. Mor.*, L. VI, n. 909.

[5] ECCLESIASTICAL REVIEW, December, p. 514.

[6] Tract. 24, n. 2523.

opinions of physicians rather than on the teachings of moral theologians.

7. In retort to my question: " Where has it been declared by the Church that the marriage of a syphilitic is forbidden by the natural law? " Dr. Donnelly asks: " In what official pronouncement has it been declared that before marriage a syphilitic must inform the other party about his condition—an ethical principle that is indubitable? "

However, the two cases are entirely different. It must be remembered that in addition to official decrees of the Church the common consent of theologians is also a norm of Catholic truth. For, when the Church permits all the theologians to propose a doctrine as true, she is tacitly approving that doctrine.[7] Frequently the answer of the Holy See to a question concerning faith or morals is " Consulantur probati auctores ". Now, since the principle that a syphilitic must reveal his infection before marriage to the other party is taught by all theologians, with the knowledge of the Church, the Church's silence is surely a sign of approval. On the contrary, since the majority of theologians teach that the natural law does not forbid the marriage of a syphilitic (given the requisite justifying causes), and comparatively few teach the opposite, we should expect the Church to issue an official pronouncement if she believed the former to be wrong and the latter to be right. Hence, the silence of the Church in this matter seems to be rather a sign of approval of the former and of disapproval of the latter.

II.

1. The main point in the second part of Dr. Donnelly's paper —that the state may prohibit syphilitics, even though baptized, to marry—presupposes that it is against the natural law for these persons to enter the marital state. As I stated in my first paper, the state may indeed enforce the natural law in regard to the marriage of even baptized persons, *provided it limits itself to matters prescribed or forbidden by the natural law according to the teachings of the Catholic Church.*[8] Now, according to the majority of Catholic theologians, the natural law permits a

[7] Pope Pius IX developed this point in his letter " Tuas libenter " (Denzinger, nn. 1679-1684).

[8] ECCLESIASTICAL REVIEW, December, p. 511.

syphilitic to marry if he forewarns the other party and there is a proportionately justifying cause. Of course, the Church has the right to determine whether or not there is a sufficiently justifying cause (canon 1038, § 1). And so, if the state law was worded thus: "Syphilitics may not marry unless the other party is forewarned and there is a justifying cause for the marriage, the Catholic Church being the judge in this matter," we should have no fault to find with the law. But the fact is that our state laws do not acknowledge any authority on the part of the Catholic Church in this matter. Furthermore, these laws do not make allowances for reasons that will justify the marriage of a syphilitic, especially the avoidance of incontinence. Consequently, our state laws are adding an impediment over and above the requirements of the natural law and thus are encroaching on the exclusive authority of the Church when there is question of baptized persons.

2. Dr. Donnelly says: "A law intended to prevent the spread of syphilis is not *eugenic* legislation, as that term is usually understood, but *health* legislation which endeavors to protect living persons".

I think that any one who studies the arguments brought forward by the advocates of the laws in question will find that far greater emphasis is laid on the evil results of a syphilitic's marriage coming down to the children than on those that affect his consort. Consequently, these laws are primarily intended as eugenic statutes. However, even if it be granted that they are health, rather than eugenic, laws—what difference does it make to my thesis, that by this legislation the state is interfering with the Church's exclusive authority over the sacrament of Matrimony? Is the state permitted, in order to safeguard the health of its citizens, to dictate to the Church how and when she may administer the sacraments? May the state forbid priests to anoint those dying of smallpox, in order to prevent the spread of the disease?

3. Dr. Donnelly quotes Vermeersch's statement: "The state may forbid syphilitics to marry for a time, at least by putting itself in agreement with the competent authority, which in the case of baptized persons is the Church".

I agree perfectly with Vermeersch. But how can our present laws be said to be in agreement with the Church when they do

not recognize justifying causes for the marriage of a syphilitic—especially the avoidance of incontinence, the justifying reason emphasized by the majority of Catholic theologians?

4. I do not see how the quotations from Gasparri and Cavagnis are opposed to my thesis. The former is concerned with the case in which the state enforces a natural law by virtue of which one is obliged to postpone marriage for a time—and with this I agree entirely, *provided the state limits itself to matters prescribed or forbidden by the natural law according to the teachings of the Catholic Church,* as I asserted in my first article.[9] But, as I said above, the present laws do not limit themselves to this sphere. Cavagnis is speaking of those civil restrictions which, as I said in the same article (p. 510), only *indirectly* and *as a consequence* render a person incapable of marrying, for he uses the terms *per accidens* and *ob extrinsecam circumstantiam.* Now, the state laws we are discussing *per se* and *directly* forbid marriage to syphilitics.

5. Finally Dr. Donnelly says: " There may be instances when the regulation of civil authority will not have to be observed, because a greater good must take precedence." I cannot but see in this a virtual acknowledgment of my thesis. However, I differ from Dr. Donnelly in the practical application of this point. He says in substance: " Let us have a civil law forbidding syphilitics to marry until they are cured. Then, if a case occurs in which the law of the state forbids marriage to a baptized person who really has the right to marry by the natural law—in other words, a case in which the state assumes a prerogative that Christ wished to belong exclusively to His Church—let us advise the couple to marry in defiance of the state with a ceremony devoid of the presence of the priest, a ceremony that would not be recognized as a legal marriage by the state, so that subsequently the couple would find it difficult to live together as husband and wife without the risk of infamy."

My conclusion is this: " If we are to have a civil law aimed at checking the spread of syphilis through marriage, let the state prescribe that couples wishing to marry shall be examined and told of each other's condition—and nothing more. Such a law will be almost as effective as the other, and will be entirely within

[9] December, p. 511.

the competency of the state. Then, if a couple have a sufficient reason to marry, despite the presence of syphilis, they may do so according to the normal form prescribed by the Church. Thus will be preserved the exclusive right of the Church to declare how far the natural law binds as regards marriage and to establish matrimonial impediments for the baptized."

* * *

I have never attempted to state how frequently or how rarely the case will occur in which a syphilitic is justified according to the natural law in contracting marriage. I simply contend that in passing a law which prohibits marriage to baptized persons under circumstances in which the natural law does not forbid them to marry, the state is exceeding its authority and violating the rights of the Catholic Church. And I beg my clerical readers, the vanguard of the Church Militant, not to concede to the secular power a single iota of the Church's divinely granted prerogatives. The history of the past nineteen centuries relates many sad instances in which the state arrogated to itself authority that rightly belongs to the Church alone; and the most tragic cases were those in which members of the Church itself coöperated in this usurpation. On these occasions there was always an opening wedge—the yielding of a principle, which in the beginning did not entail much injustice to the Church but which eventually led to grave encroachments on her domain by the civil rulers. May not some Catholics in the United States be even now urging an opening wedge toward complete governmental control of marriage by inviting the civil officials to dictate to the Church whether or not, and under what circumstances, she may permit her members to marry?

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SOME QUESTIONS ON VITIATED MARITAL CONSENT.—II.*

VII.

THE VALIDITY or invalidity of a marriage entered into with perverse intent is likewise controlled by the subjective qualities of the intent. To invalidate marriage the intent against its substance must be seriously made; hence, the perverse words spoken by contractuals must be examined in the light of their manner, circumstances, antecedents etc., to discover whether the words and intent were really serious, or just lightmindedly expressed. Thus in a case from Oregon City there was proof enough of words spoken contrary to the perpetuity of the marriage, but there was also reason for doubt whether they expressed a truly serious intent, and the decision stood for validity.[1]

VIII.

When we come to examine the further qualities required of even a serious perverse intent in order that it invalidate marriage, the first question is whether a positive perverse intent on the part of one party suffices, or whether only a bilateral perverse pact of the contractuals invalidates. The history of the question does not rise above all unclearness and cause of confusion, because, in the course of the long development of the canon law, canonical concepts were acquired mostly as practical cases presented themselves for solution, and were expressed only in terms that fitted the cases discussed. The want of perfect precision in the terminology has had its effect in obscuring, to some extent, the soul of the practical question as well, and there has not always been agreement on the precise requirements in order that marriage be invalidated. In the earliest record of decision or opinion on the validity of marriage to which the parties had given only a restricted consent, St. Augustine in *De Bono Coniugali,* and in *De Nuptiis et Concupiscentiis,* declares that persons need not have the explicit purpose of begetting children in order to contract valid marriage, but if they avoid progeny by some evil

* In the first part of this study, which appeared in our June number, the following correction should be noted in the sixth line from foot of page 496: instead of "sterile" read "fertile".

[1] R., Oregonopol., Null. c. Prior, 6 jul. 1914 (rd., vi, p. 252); similarly Null. c. Massimi, 21 dec. 1927 (rd., xix, p. 553); Parisien., Null. c. Jullien., 5 jun. 1929 (rd., xxi, p. 216); Leodien., Null. c. Guglielmi, 28 jun. 1930 (rd., xxii, p. 377 fol.).

means, e. g. sterilizing medicine, or if a man takes a wife only for the time she pleases him, such a union is to be called lewdness and adultery.[2] The turn of Augustine's language is not so precise as to be satisfactory to modern tribunals, but the doctrine is not too unclearly expressed that either the concerted agreement of both or the will of one party against the essentials of marriage, nullifies the contract.

The wording of the famous Chapter of Gregory IX: "Si conditiones contra substantiam coniugii inserantur . . ." (c. 7, X, IV, 5), does not give greater clearness to the point, for it does not determine whether the conditions may be unilateral, or whether they must be bilateral, in order to invalidate.

The Holy Office declared on 2 December, 1680, in a case from Bosnia,[3] that marriages contracted with the intention of divorcing are void if this intention is reduced to pact ("si ista sint deducta in pactum"); otherwise they are valid, and repeatedly adheres to the same terminology.[4] Similarly Benedict XIV and Pius VI speak only of nullity derivable from perverse intention reduced to pact.[5] If we view the rule, "si ista sint deducta in pactum," in its grammatical sense, we see it may indicate as its terminus, either the *pactum matrimoniale* or a *pactum contra substantiam.* Sometimes the Roman documents have spoken of the reducing to pact in the former sense, meaning that to invalidate marriage, the perverse intent must have affected the marriage contract,[6] and this, of course, is always true. Sometimes the documents have referred rather to a *pactum contra substantiam.*[7] But when the rule is stated in this sense, it can refer either to the processual law and the practical question whether only a separate perverse pact gives a rule of evidence favorable to nullity (and we shall see more of this further on), or to the substantive law, as though it stated there must be a separate

[2] c. 6, 7, C. XXXII, q. ii.

[3] cicf., iv, n. 755.

[4] S.C.S.O., Instr. ad Vic. Ap. Oceaniae, 6 apr. 1843 (cicf., iv, n. 894); Instr. ad Vic. Ap. Oceaniae Central. 18 dec. 1872 (cicf., iv, n. 1024, p. 332); Instr. ad Ep. S. Alberti, 9 Dec. 1874 (cicf., iv, n. 1036); Inst. ad Vic. Iapon. Merid., 4 feb. 1891 (cicf., iv, n. 1130).

[5] Ben. XIV, de Synodo Dioec., Lib. XIII, c. xxii, n. 7; Pius VI, 11 jul. 1789 ad Archiep. Prag.

[6] Thus, S.C.S.O., Instr. ad Ep. S. Alberti, 9 dec. 1874 (cicf., iv, n. 1036, p. 346).

[7] S.C.S.O., Instr. ad Ep. Nesquallien., 24 jan. 1877 (cicf., iv, n. 1050, p. 373).

perverse pact in order that the marriage be invalid even in the internal forum.

The Congregation and the Rota have, in some cases, so strongly spoken of the separate pact as material to the question of invalidity, as to seem to state the rule in this last sense, as though a perverse intent against the substance of marriage could have no effect in nullity, even though it were openly manifested, unless it were reduced to separate pact.[8] The wording of these decisions is so restrictive that some noted authors have declared a principle of substantive law is stated in them which is no longer acknowledged: that the Rota has changed its principle.[9] But no decision has come to my notice which, on close examination, must be interpreted as stating the rule strictly in this last sense, and it does not seem that any canonical principle has been changed.[10]

If we examine the declarations of the Holy Office we see that they all have to do with the case of a possible intention against the indissolubility of marriage by reason of the erroneous opinions of infidels, heretics, schismatics respecting divorce, and the insistence on the perverse will's having been reduced to pact is not directed to exclude like voiding effects from a positive and expressed intention of one party, but rather to exclude these effects from the simple doctrinal error respecting indissolubility.[11] Thus, for instance, the Instruction to the Bishop of St. Albert (Canada) explicitly interprets the earlier Bosnian Instruction: " si ista sint deducta in pactum, seu cum ista intentione sint contracta, matrimonia sunt nulla. . . ." And in the Instruction to the Bishop of Nesqually (now Portland, Ore.), the Holy Office directs the judge to examine whether a condition contrary to perpetuity and indissolubility were in some way, directly or indirectly, explicitly or implicitly, reduced to pact, or (*seu*), whether the marriage was contracted with the perverse will or intention not to consent to a perpetual bond.

[8] E.g., R. Null, c. Mori, 24 jul. 1909 (rd. i, pp. 106, 107); Null. c. Prior, 17 mart. 1910 (rd., ii, p. 121); Oregonopol., Null. c. Prior, 6 jul. 1914 (rd., vi, p. 248); Null. c. Prior, 8 feb. 1915 (rd., vii, p. 22).

[9] Chelodi, n. 116 (p. 126), nota 2; Capello, iii, n. 599 (p. 678), nota 18.

[10] Doheny, Canonical Procedure in Matrimonial Cases, p. 617 (96).

[11] Cfr. S.C.S.O., Instr. ad Vic. Ap. Japon. Merid., 4 feb. 1891 (cicf., iv, n. 1130); R., Null. c. Many, 22 jan. 1914 (rd., vi, p. 12); Null. Oregonopol. c. Prior, 6 jul. 1914 (rd., vi, p. 250).

To discern this, it continues, not the words of consent alone, but facts that might have reference to the consent and the modus of its expression are to be considered.[12] One begins to see from this that the previous declarations, even that of 1680, were intended rather for the processual law than for the substantive law, and there was no decision that a positive perverse unilateral intention could have no voiding effect upon the marriage contract.[13]

Hence the Congregation of the Council generally laid stress on this broader interpretation of the documents of the Holy Office, and did not disdain to declare marriages invalid on the ground of perverse intent alone, even though that intent had not been brought into separate pact.[14] Similarly the Rota.[14a] This is in accord with what St. Thomas taught (Summa, III, q. xlix, a. 3.), and there were not wanting canonists who indicated that the perverse intent could have its invalidating effect without being brought into separate pact.[15] The rule, "si ista sint deducta in pactum," thus has a bearing on the substantive law only in so far as it states the perverse intention of a contractual must have become a positive intention, such that it is introduced with effect into the marriage contract (sint deducta in pactum matrimoniale).[16]

In all these matters it is not the form or way in which the perverse intent is expressed: it is not the separate pact or agreement as such, that invalidates the marriage, for the pact or agreement does not change the object and nature of the perverse intent, and it is these that control the validity or invalidity of

[12] S.C.S.O., Instr. ad Ep. S. Alberti, 9 dec. 1874 (cicf., iv, n. 1036); Instr. ad Ep. Nesqually, 24 jan. 1877 (cicf., iv, n. 1050, pp. 373, 374).

[13] R., Neo-Eboracen., Null. c. Prior, 8 feb. 1915 (rd., vii, p. 24).

[14] S.C.C., Parisien., 7 jul. 1883; 7 mart. 1885 (cicf., vi, nn. 4259; 4266); Parisien., 31 jan. 1891 (cicf., vi, n. 4282).

[14a] R., Neo-Eboracen., Null. c. Cattani, 1 mart. 1913 (rd., v. p. 173 fol.); Null. c. Sebastianelli, 7 feb. 1914 (rd., vi, p. 56 fol.); cfr. the same principle stated in cases where the facts however did not warrant declaration of nullity in R., Null. c. Many, 22 jan. 1914 (rd., vi, p. 12); Oregonopol., Null. c. Prior, 6 jul. 1914 (rd., vi, p. 250); Neo-Eboracen., Null. c. Prior, 8 feb. 1915 (rd., vii, pp. 22, 34, 38); cfr. also Parisien., Null. c. Sebastianelli, 10 mai. 1916 (rd., vii, p. 140).

[15] DeBecker (ed. 1908) pp. 85, 86; Lehmkuhl, ii, n. 688.

[16] R., Oregonopol., Null. c. Prior, 6 jul. 1924 (rd., vi, p. 248): "Deducere aliquem conditionem in pactum matrimoniale nihil aliud significat quam facere talem conditionem partem constitutivam contractus matrimonialis; si autem solubile matrimonium positive intenditur, eo ipso, ex sua natura, est pars constitutiva contractus . . ."; DeSmet, De Sponsalibus et Matrimonio (ed. 1923), i, n. 152; Capello, ii, n. 599.

marriage. Thus the Rotal decisions have held, almost uniformly, that invalidity does not derive from the exclusion merely of proper use of rights, even though the exclusion be reduced to pact or condition.[17] Some decisions however declare that, where there is an intention of contracting and obliging oneself but not fulfilling the marital obligation, and this is reduced to pact, the marriage is invalid.[18] Certainly this is correct in the sense that the pact gives rise to a presumption that, in spite of the wording of the pact, the right and obligation themselves were excluded; or, and this comes to the same thing: the pact indicates a restriction of the right to fulfil the marital obligations, and thus the marriage is invalid. In this sense too, the doctrine of those authors becomes clear, who assert, rightly, that the intent to abuse marriage rights does not invalidate, but nevertheless, that the pact or condition to abuse invalidates.[19]

Under the present Code of Canon Law the theoretical question cannot be unclear to anyone; for canon 1086, § 2 explicitly says the marriage is invalid if the marital right or essential properties be excluded by either party or both parties, through a positive act of the will. This canon refers in the first place to internal consent and states a ruling for the internal forum; yet it is not for the internal forum alone. Thus, in practical cases and in the external forum ecclesiastical judges may pronounce marriages invalid by reason of a positive perverse intent of one party alone, if it be proved. The Rota has continued as heretofore to give decision of nullity in such cases, even when the perverse intent had remained entirely unknown to the other contracting party.[20]

[17] R., Null. c. Parrillo, 29 apr. 1922 (rd., xiv, p. 124); Null. c. Parillo, 5 dec. 1927 (rd., xix, p. 497 fol.); Null. c. Quattrocolo, 16 apr. 1928 (rd., xx, p. 113 fol.)

[18] R., Null. c. Prior, 13 dec. 1912 (rd. iv, p. 460); cfr. also Null. c. Prior, 10 dec. 1914 (rd., vi, p. 342); Neo-Eboracen., Null. c. Prior, 8 feb. 1915 (rd., vii, p. 22).

[19] Lehmkuhl, ii, 879-881; Gasp., (ed. 1904) ii, n. 1006; (ed. 1932) ii, n. 898; Capello, iii, n. 631.

[20] R., Null. c. Chimenti, 4 aug. 1922 (rd., xiv, p. 252); Null. c. Chimenti et omnibus, 23 nov. 1923 (rd., xv, p. 273); Null. c. Solieri, 16 jul. 1927 (rd., xix, p. 306); cfr. also cases in which the principle is asserted though nullity was not declared because the facts were not proved, in R., Paderbornen., Null. c. Sebastianelli, 27 jul. 1917 (rd., ix, p. 162); Null. c. Jullien., 15 jun. 1925 (rd., xvii, p. 247); Null. c. Guglielmi, 18 dec. 1926 (rd., xviii, p. 417); Null. c. Florczak, 7 jun. 1927 (rd., xix, p. 209).

IX.

But another canon: 1092, 2° establishes that also a perverse condition nullifies marriage. It is therefore necessary to examine what the relationship is between canon 1086, § 2 and canon 1092, 2°, and whether a condition, as distinct from an intent, against the substance of marriage is necessary to invalidate marriage.

The word *conditio* is used by the Code in several senses, and by canon 1092 in three (possibly four) variations of the sense: stipulation. When it is used to express a rightful stipulation (*c. licita*) upon the past or present non-fulfilment of which the marriage is peremptorily voided (c. 1092, 4°), or upon the future non-fulfilment of which the marriage, meanwhile suspended, is never effectively concluded (C. 1092, 3°), canonical usage has precisely defined the term *conditio* and set out the bounds of its influence. So too in similar stipulations which are not rightful, but rather shameful, impossible or necessary, yet not contrary to the substance of matrimony (c. 1092, 1°): "Conditio . . . definitur circumstantia actui adiecta ex qua ipse actus pendet." [21] This is the true *conditio sine qua non*, i. e. sine qua matrimonium non contrahitur. But when the word *conditio* is used to express a stipulation of the contractual's intent respecting the future contrary to the substance of marriage (c. 1092, 2°), the sense of the word *conditio* is different from, almost contrary to the sense in which it is more properly used; for there can be no such thing as the validity of the act, i. e. the marriage contract, being made dependent upon the fulfilment of the condition against the substance of marriage. This condition then, is the *conditio cum qua non*, i. e. "cum qua matrimonium non contrahitur," [22] and is termed in English and American law: "repugnant condition".

The distinction between these uses of the word condition takes its first illustration from Gregory's Decretal: c. 7, X, De Conditionibus Appositis in Sponsalibus vel in Aliis Contractibus, IV, 5. Pope Gregory uses the word *conditiones*, but he at once exemplifies his famous chapter by a case in which there is neither

[21] Gasp., (ed. 1904) ii, n. 99; (ed. 1932) ii, n. 79; DeSmet, i, n. 152; W-Vidal, v, n. 510.

[22] The distinction and terminology comes from the glossators Hugaccio of Pisa and Petrus Hispanus (ex Timlin, p. 38, Freisen, p. 234).

question of the validity of the marriage being made dependent upon the fulfilment of the stipulation, nor question of a suspension of the will to contract; but rather there is a positive perverse intent accompanying and nullifying the marital consent and the marriage: " donec inveniam aliam honore vel facultatibus digniorem ". The only sense in which such a stipulation can be said to be a condition is that of resolutory condition (*c. resolutoria*), and this is nothing other than an intent to dissolve the marriage, which intent nullifies whether or not the stipulation be fulfilled.

This indiscriminate use of the word *conditio* has caused lack of uniformity, not to say confusion, in definitions and rulings where stipulations repugnant to the substance of marriage were concerned. Some authors rightly describe the sense of Gregory's word *conditio* to be simply a positive intent; [23] others describe it as a modular clause or modality (modus); [24] still others essay to vindicate for it the qualities of a condition *sine qua non*, in so far, namely, as the consent to enter what the contractual calls marriage, may be limited and, in a sense, suspended by the condition that the other contractual agree to practise desired perversions.[25]

In consequence, authors vary from one another in describing the required internal qualities of a repugnant condition. The simple requirement of canon 1092, 2° is that the contractual shall have so firmly willed the exclusion of the substance of marriage, that even though he also willed the marriage (in a sense), he nevertheless, in effect, preferred his perversion to marriage; or, in other words, that, of the perverse will and the will to marry, the former was prevalent. In order to have formed a condition in this sense, it is by no means necessary that the contractual shall have conceived and willed an alternative; as though he were to say: " If I could not have my will against the substance of marriage, I would not contract the marriage "; or, " I withhold my consent to the marriage except on condition etc. . . ."; it is entirely sufficient that the perverse will be simply

[23] Thus the gloss to c. 7, X, IV, 5; Freisen, p. 255 (49); R. Neo-Eboracen., Null. c. Cattani, 1 mart. 1913 (rd., v, p. 194); Null. c. Parrillo, 29 apr. 1922 (rd., xiv, p. 123).

[24] Pirhing, Synopsis, seu SS. Canonum Doctrina, (1849) Lib. IV, tit. iv, § 6 (p. 606).

[25] Blat, De Sacramentis, (1924), p. 619.

positive and hence that its object be, in effect, preferred to the marriage. In this sense then, any positive, and hence prevalent intent against the substance of marriage, i. e. against the rights and obligations themselves, is a condition repugnant to the substance of marriage.[26]

Canon 1092 does not use the word *conditio sine qua non* but simply the word *conditio,* and leaves the various examples of condition which it enumerates to enjoy their own proper requisites, limitations, effects. But in that part of the Code where the general norms are given that govern human acts and contracts, canon 104 uses the word *conditio sine qua non* and distinguishes acts thus stipulated from acts in which the stipulation (error) is repugnant to the substance of the act, and says that both invalidate. Evidently then, the repugnant stipulation need not be a *conditio sine qua non,* in order to invalidate. Nor does canon 1092 use the word " suspensive condition," except in no. 3 where it speaks of licit future conditions which suspend the validity of marriage. To stipulations against the substance of marriage it simply gives the name: conditions. These are not suspensive.[27]

It may indeed happen that a contractual, as though to make assurance doubly sure, not only expresses a positive perverse intent against the substance of marriage, but, in addition, makes the acceptance of this intent a condition to the giving of his consent to what he calls a marriage. In this there is indeed a condition *sine qua non* directed to an already vitiated consent; but

[26] R., Neo-Eboracen., Null. c. Cattani, 1 mart. 1913 (rd., v, p. 194): " . . . conditio sumitur non taxative, sed demonstrative, et non stricto sensu sed latiori seu pro quocumque voluntatis actu "; cfr. R., Null. c. Parrillo, 29 apr. 1922 (rd., xiv, p. 123); Harlemen., Null. c. Guglielmi, 26 mart. 1930 (rd., xxii, p. 177); Gasp. (ed. 1904), ii, n. 903; (ed. 1932), ii, n. 807: " explicito voluntatis actu, seu vera mentis conditione . . ."; DeBecker (ed. 1931), p. 124.—Hence P. Roeb in Theol. Prak. Quartalschrift, lxxxvii (1934), p. 381 erroneously states that only a *conditio sine qua non,* and by no means a positive perverse intent invalidates; similarly Doheny, p. 634, who however states the matter more accurately on pp. 574, 576.

[27] Cfr. R., Westmonasterien., Null. c. Grazioli, 11 apr. 1927 (rd., xix, p. 114): " Merito . . . adiectam legem " si le mariage n'etáit pas heureux " haud conditionem significare, sub qua consensus in matrimonium praestitus fuit, sed causam ob quam. . . . Quare in casu consensus in matrimonium haud remansit in suspenso, ut purus evaderet, purificata conditione, sed fuit inde ab initio vitiatus, seu potius nullus."; Similarly Blat, De Sac., n. 492; Hence DeSmet, i, n. 155 is not precise when he says: " . . . invalidum est matrimonium initum sub conditione suspensiva non tradendi ius . . ."; Gasparri in ed. 1904, ii, n. 1000 writes of the invalidating " conditione de eventu futuro contingenti contra substantiam." In the post-Code edition of 1932 however, he omits the word " contingenti " and writes " De conditione de futuro contra matrimonii substantiam " at the head of n. 892.

while the contractual's already vitiated will to contract is thus made to depend upon the fulfilment of the condition, the validity of the marriage by no means depends upon it; the validity of the marriage is already excluded (in the logical and canonical order) by the perverse intent alone (*c. cum qua non*), and the condition *sine qua non* is superfluous and not required to invalidate.

Some authors seem to state that when the stipulation has been formed as a condition *sine qua non* it has a power to invalidate marriage precisely because of the conditional form in which it is cast; i. e. in cases where a positive perverse intent does not invalidate because the matter does not touch the substance of marriage, the same intent, having the same object, when formed as a condition *sine qua non* of consent, invalidates from the beginning, irrespectively of whether or not the condition comes to fulfilment. Thus in the matter of an intent to bring up progeny in infidelity, heresy etc. DeBecker and Lehmkuhl hold that this intent, however positive, does not invalidate the marriage, because the supernatural bringing up of the offspring does not pertain, by nature, to the primary end of marriage; but they state that if the intent be made a condition *sine qua non,* this invalidates the marriage from the beginning.[28] No author has ever come to my notice who vindicated by arguments, either philosophical or canonical, the power thus claimed for a condition *sine qua non* of voiding marriage in a matter that does not touch the substance of marriage, and without any question of the present or future fulfilment or non-fulfilment of the condition. In fact, the principle cannot be sustained; for conditions *sine qua non* have no power, beyond that which a positive intent has, to invalidate marriages to which they are attached, except by the non-fulfilment of a condition upon which the consent hinges.

Some few Rotal decisions have stated that, although an intent to avoid progeny by merely not fulfilling the obligations assumed does not invalidate, the same intent if it be made a condition *sine qua non* of marriage consent invalidates the marriage.[29]

[28] DeBecker (ed. 1908), p. 84; (ed. 1931), p. 126; Lehmkuhl, ii, nn. 879, 880 & nota 1.

[29] R., Null. c. Prior, 10 dec. 1914 (rd., vi, p. 342); Neo. Eboracen., Null. c. Prior, 8 feb. 1915 (rd., vii, p. 22); Null. c. Mannucci, 29 dec. 1928 (rd. xx, pp. 509, 510) somewhat similarly.

As stated above in regard to pacts, this is true because the expressed condition indicates that the marriage rights and obligations, or the right of properly fulfilling them, was restricted.

In order then that a marriage be invalidated by perverse intent canon 1092, 2° does not add any requirement to the requirements already stated in canon 1086, § 2; but whereas canon 1086, § 2 refers in the first place to the inner intent, canon 1092, 2° refers to that intent when it is brought into external form so as to be provable in court, principally by being brought into separate pact between the contractuals. Hence the word *conditio* indicates, in canon 1092, 2°, that the intent has been expressed in external form; that it is not merely an internal act of the will.

X.

Just as with the word *conditio,* so too with the word *modus,* there has been no uniformity of concept and definition; and hence authors and courts have variously expressed themselves respecting the invalidating effect of a perverse modality or modular clause (*modus*). The chapter heading of c. 4, X, IV, 5 denotes as a modality what Alexander III terms a condition in the text of the Chapter itself: "Res, donata . . . sub modo . . . interposita conditione donatur. . . ."

Among the authors some declare that marriage is voided by a stipulation against the substance of marriage whether the stipulation be put down as a condition or as a modality. These authors evidently conceive such modalities as being, in fact, prior to the marriage, and as affecting the marital rights and obligations themselves, and they distinguish such modalities from conditions against the substance of marriage only by the form in which they are expressed.[30] In this sense it is correct to say that even a modality contrary to the substance of marriage invalidates the marriage contract, for it inserts an intent into the marriage with which a true marriage cannot coexist (*c. cum qua non*).

Others declare that marriage is not voided unless the perverse stipulation be a condition rather than a mere modality. These

[30] Pirhing, Lib. IV, tit. iv, § 5 (p. 606); W-Vidal, v, n. 519; R., Null. c. Perathaner, 21 apr. 1915 (rd., vii, p. 202); Null., c. Morano, 6 aug. 1929 (rd., xxi, p. 384).

authors mean by condition a stipulation contrary to the marital rights and obligations themselves, and by a modality, a stipulation regarding only the fulfilment of marital obligations,[31] or as appended posteriorly (at least in the logical order) to the already completed marital consent.[32] All this is entirely in accord with canons 1086, § 2 and 1092, 2°, and in this sense it is correct to say that a modality contrary to the benefit of fidelity or progeny does not invalidate the marriage, for such a modality can coexist with valid marriage. The difference between the two sets of authors and decisions lies in their different concept of the word *modus,* and thus the difference in their doctrine, as applied to repugnant conditions and modalities, is more ostensible than real.[33]

XI.

If we consider the qualities of an intention against the substance of marriage according to the intensity or energy or firmness of will, we find the well known distinctions between interpretative, habitual, virtual and actual intentions. An actual intention against the substance of marriage is one consciously formed and retained at the moment of entering upon the marriage. Such an actual intention is exemplified by the person who uses a formula of marriage contract which protests against the essential qualities of marriage by explicit wording. Thus some Calvinist rituals, especially in Transylvania, require an oath or statement that the marriage is considered dissoluble in case of adultery,[34] and in some modern states the civil law allows the use of a formula for temporary, companionate or trial marriages. An intention so expressed certainly invalidates the marriage contract.[35] But the judge must beware lest he con-

[31] Thus Gasparri (ed. 1904), ii, nn. 987, 1005, 1006; (ed. 1932), ii, nn. 879, 898, 906; DeSmet, i, n. 155; Chelodi, n. 127; Blat, De Sac., p. 620; R., Null. c. Lega et omnibus, 17 jan. 1912 (rd., iv, n. 53); Null. c. Chimenti, 23 nov. 1923 (rd., xv, pp. 275, 292); Null. c. Florczak, 7 jun. 1927 (rd., xix, p. 209); Null. c. Massimi, 9 mai. 1928 (rd., xx, p. 179); Null. c. Morano, 6 aug. 1929 (rd., xxi, p. 381); Parisien., Null. c. Quattrocolo, 31 jul. 1930 (rd., xxii, p. 506).

[32] Schaefer, Das Eherecht, (1924), p. 243; Ayrinhac-Lydon, Marriage Legislation in the New Code of Canon Law (1932), p. 202; cfr. W-Vidal, v, p. 614 (46) fol.

[33] Pirhing, Lib. IV, tit. iv, § 5 (p. 606): "Saepe tamen, quod aliis modus habetur, aliis est conditio; Similarly W-Vidal, v, n. 519; Capello, iii, n. 127 (p. 138).

[34] Pulsers, Tract. de Matrim., p. 226 (ex DeBecker) testifies that this formula hardly ever appears in the rituals of the Protestant sects of America.

[35] S.C.S.O., 20 mai. 1754 (vide cicf., iv, n. 883); Instr. ad Vic. Ap. Oceaniae, 6 apr. 1843 (cicf., iv, n. 894).

found the formula of marriage with the words of exhortation, the sermon, the prayer of the officiating minister, or the admonition that the civil law grants divorce; for even though these contain statements contrary to indissolubility they do not constitute the formula of marriage, and the parties listening to them are not presumed to have formed a perverse intent according to them. At most, they give a probability of the contractuals' intent, and afford some indication which may be taken into consideration with other partial proofs.[36] Even when the perverse formula is used it is not of itself an invalidating circumstance, but merely indicates, by legal presumption, the perversity of intent which is the cause of the invalidity. The Holy Office has ruled that if two Catholics enter upon marriage before a schismatic or heretical minister with such a formula, yet expressly declare that they intend to contract according to the mind of the Catholic Church, or if in a mixed marriage the Catholic so declares and the heretical party assents to this, the marriage consent must be considered valid.[37]

If the formula used in contracting marriage is not thus perverse, the parties, or one of them, may still have an actual perverse will or intent. This is exemplified by those who protest in the act of marrying or immediately prior to it, that they restrict their consent with regard to the primary end of marriage or its essential properties. But such an actual perverse will is not established by the contractuals' having affirmed they marry according to the law of the land, even when the law of the land grants divorce and the practice of divorcing is quite general; for even when such an expression is attached to the formula of marriage, it does not positively state an intent to divorce, but only a consent to marry.[38] But the statement that marital consent is given according to the law of the land, if made under definitely indicative circumstances, may constitute some partial proof of a perverse intent against perpetuity.[39] An actual perverse intention is not however required to nullify marriage.

[36] R., Null. c. Many, 22 jan. 1914 (rd., vi, pp. 17, 18); Mohilovien., Null. c. Guglielmi, 20 feb. 1929 (rd., xxi, p. 124).

[37] S.C.S.O., 22 jul. 1840 (cicf., iv, n. 883).

[38] S.C.S.O., Instr. ad Vic. Ap. Sandwich., 11 dec. 1850 (cicf., iv, n. 913 ad 26, 27); 11 mart. 1860 (ex rd., vii, p. 38); R., Neo-Eboracen., Null. c. Prior, 8 feb. 1915 (rd., vii, p. 38).

[39] S.C.S.O., Instr. ad Ep. Nesqual., 24 jan. 1877 (cicf., iv, n. 1050, p. 374).—

A virtual perverse intention is sufficient. The virtual intention has its beginning in an actual intention, was an actual intention positively formed in the will, and has never been retracted, and at the moment of marriage it persists and exists and influences the contract by virtue of the lingering force of the actual intention previously formed, even though at that moment the mind does not actually dwell on it. Thus, the person who on the day before the wedding formulates an intention against the right and obligation of progeny, but forgets this, for the moment, in the excitement of the wedding, has a virtual intention in the moment of marrying that is repugnant to the substance of marriage, and this intention nullifies the marriage.[40] Both actual and virtual intentions are included in the purview of the Code's wording: positive act of the will (c. 1086, § 2).

An habitual intention does not derive from an actual intention, but rather from an habitual frame of mind, as though one should say: " I always considered marriage dissoluble, and so I intended only a dissoluble marriage." Or, if there had been an actual intention in the beginning it was a general intention, has never been positively formed with respect of the marriage under question, and has thus been allowed to lapse into a mere frame of mind, as though to say: " I made up my mind long ago that, when I should marry, it would be a dissoluble marriage; thus later on, when I married, I intended only a dissoluble marriage."

But however clear the distinction between a virtual intention and a habitual intention may be in theory, it is very difficult to know, in a given case, whether a marriage was infected by a perverse virtual intention or whether the perverse intention was merely habitual. Both kinds of intention have, or may have, in common, that there was once an actual intention; both likewise have this: that they were never explicitly retracted. But the merely habitual intention has been so general in its scope and has so far lapsed from actuality, in the circumstances surround-

This is undoubtedly what is meant by DeBecker (ed. 1908), pp. 84, 85: " . . . si partes affirment se contrahere ' iuxta legem regionis ' in qua, etiam levibus ex causis, dissolvi solet matrimonium . . . satis constat in ipso foro externo. . . ."

[40] R., Nicien., Null. c. Many, 21 jan. 1911 (rd., iii, p. 27); Null. c. Grazioli, 11 aug. 1921 (rd., xiii, p. 225); Null. c. Chimenti, 4 aug. 1922 (rd., xiv, p. 257); Null. c. Solieri, 13 feb. 1925 (rd., xvii, p. 75); Null. c. Parrillo, 5 dec. 1927 (rd., xix, p. 502).

ing the proposed present marriage, if indeed it ever was actual, that it has now no power in the influencing of the will to the perverse object. The virtual intention however has a quality of force, power and efficacy, deriving from its having been actually formed in view of the precise circumstances of the proposed forthcoming marriage, which influences and moves one to the intended perverse object.[41]

The habitual intention may be considered, in its effect, in so far namely, as it is an act of the will, however weak, or it may be considered in its cause, in so far as it is an error or perversity of the intellect; for it derives generally from doctrinal error, e. g. that adultery begets the right of divorce and remarriage. Considered in its effect there is no doubt that something of the nature of an intent against perpetuity lurks in this habitually perverse frame of mind, but it is so slight and tenuous, so indeterminate that it does not have the force to nullify the contrary actual will expressed in the marriage ceremony; or, in other words, it is not sufficiently strong to overcome the actual intent to marry according as the Author of nature has established; and this latter actual will absorbs and overcomes the error and habitual intention against perpetuity. Thus, St. Paul in I Cor. 7 evidently supposed valid marriage was contracted by infidels who held the doctrine of divorce, and did habitually divorce. Thus the habitual intention, however perverse in its object, does not amount to that positive act of the will which canon 1086, § 2 requires in order that marriage be invalidated.

The habitual intention considered in its cause, amounts to error. Of error (*simplex error*) concerning the unity, indissolubility or sacramental dignity of marriage, Canon 1084 says that it does not invalidate the matrimonial consent, even though it afford, i. e. be the cause of the contract, and even though the marriage itself be in some way the effect of the error.[42] Hence

[41] R., Null. c. Prior, 20 mai. 1912 (rd., iv, p. 238); Null. c. Many, 18 aug. 1916 (rd., viii, p. 315); Null. c. Grazioli, 11 aug. 1921 (rd., xiii, p. 225); Null. c. Solieri, 10 aug. 1922 (rd., xiv, p. 274).

[42] Cfr. R., Null. c. Lega, 30 aug. 1911 (rd., iii, p. 464); Neo-Eboracen., Null. c. Lega, 9 dec. 1911 (rd., iii, p. 515); c. Prior, 8 feb. 1915 (rd., vii, pp. 28, 32, 37); Null. c. Prior, 19 mai. 1920 (rd., xii, p. 108); Null. c. Guglielmi, 18 dec. 1926 (rd., xviii, p. 421).

the habitual intention is also called simple intention, in opposition to positive intention, because it derives from simple error.[43]

The habitual perverse intent can coëxist with an actual or virtual will to marry according to the law of nature and Christ, and hence there has arisen, notably since Benedict XIV, the canonical doctrine that, when there are two such contrary intents, the actual or virtual prevails over the habitual or simple intent or simple error. The doctrine of prevalence of the will to marry over the will to restrict the contract against its true nature is asserted on the ground of presumption: the law presumes that the parties are really more intent on truly marrying than on insisting on their error and perversion.[44] If, however, a contractual positively reserves to himself a right, as it were, of contravening the true marriage contract, e. g. by divorcing, then the doctrine of the actual will-to-marry's overcoming the habitual perverse will is not available; for the perverse will is then no longer habitual but actual, and this actual perverse will overcomes the will to marry.[45]

So too if a contractual's error is not merely a simple error, but one whose influence has positively affected the will, or, in other words, if the error did not merely give cause to the marriage contract, but gave cause to a positive will contrary to the substance of marriage, then this will invalidates the marriage.[46]

Hence, when a positive intention against the substance of marriage has been proved in a case, it is useless to inquire whether this intention or the general intention to truly marry be prevalent; for the specific intention is then, by its nature, prevalent, and, by its nature, overcomes the generally presumed intention to marry according to the law of nature and Christ, and nullifies the marriage. This is beautifully illustrated in a case that came to the Rota from diocesan court, where the nullity of a marriage had been declared. The Rotal court under Solieri declared, in

[43] Thus the Holy Office speaks of this simple intention in Instr. ad Ep. S. Alberti, 9 dec. 1874 (cicf., iv, n. 1036): "libertatem et ipsi retinere volunt"; and again in Instr. ad Vic. Ap. Japon. Merid., 4 feb. 1891 (cicf., iv, n. 1130): "Cum opinione dissolubilitatis seu cum intentione divortii inita fuerint."; cfr. R., Null. c. Solieri, 16 jul. 1927 (rd., xix, p. 309).

[44] Ben. XIV, De Synodo, Lib. XIII, c. xxii, n. 7; Blat, De Sac. pp. 621, 622.

[45] R., Null. c. Prior, 24 jul. 1909 (rd., i, p. 108); Neo-Eboracen., Null. c. Prior, 8 feb. 1915 (rd., vii, pp. 23, 24).

[46] R., Vic. Ap. Sueciae, Null. c. Sincero, 19 aug. 1914 (rd., vi, p. 310); Null. c. Parrillo, 12 aug. 1929 (rd., xxi, p. 435).

the footsteps of some earlier decisions, that the presumption in Christian marriage must hold the intent to marry according to nature and Christ as primary and prevalent against the specific intent to dissolve. But when the case was appealed to another turn under Massimi, the Rota, even though it confirmed the second court's decision in favor of validity, because sufficient proofs were wanting, corrected it in this point, and stated that, where there is a positive will excluding indissolubility, there need be no further inquiry whether or not the contractual intended true marriage by prevalent intention, for the positive will to exclude indissolubility is by its nature prevalent.[47]

So long as the intent against the substance of marriage is not shown to have been a positive intent, however, the judge will seek to determine which of two contrary wills was the prevalent, or, in other words, whether there was an actual or virtual intent against the substance of marriage:

(1) That which is chiefly, principally in the will of a contractual, i. e. the object on which he reflects more ardently and approaches with the keener appetite is not necessarily that which is prevalent between two contrary wills; for it may happen that the marriage itself, although the more reflected upon and the more keenly desired, be precluded by another will, a perverse will which prevails over the will to marry according to God's law, and which by positive intent excludes the substance of true marriage.[48]

(2) That which, in the order of time, was first in the will of a contractual is not necessarily that which is prevalent between two contrary wills. Nearly every marriage is first intended as a marriage, and then only circumscribed by stipulations.[49] But neither is that which was last in the will of the contractual necessarily the prevalent between two wills; for the error and the perverse habitual intention that derives from it may have been in the mind of a contractual right up to the moment of marriage, and yet it may happen that they do not prevail over the actual will to marry, because they do not rise above the quality of habitual intention. But if we seek, from the order of time, an

[47] R., Null. 16 jul. 1927 (rd., xix, p. 306); 30 dec. 1927 (rd., xix, p. 549); cfr. also R., Neo-Eboracen., Null. c. Cattani, 1 mart. 1913 (rd., v, p. 193).

[48] Cfr. R., Null. c. Parrillo, 5 dec. 1927 (rd., xix, p. 502).

[49] Cfr. R., Null. c. Parrillo, 5 dec. 1927 (rd., xix, p. 502).

indication of prevalence of intent, it will rather arise from the will that is later formed, e. g. to divorce, than from the will that was first formed, e. g. to marry; because the will that was later formed in view of the forthcoming marriage usually denotes the more specific and consequently the more energetic will.[50]

(3) If a contractual is known to have held erroneous views on marriage, this need not necessarily be interpreted as proof that there was only an error of the mind; for if he is shown to have expressed an intent, this intent may be a positive intent, and the erroneous views may give an indication of positive intent, e g. to divorce the marriage.[51] Even when a poorly instructed Catholic labors under the erroneous idea that divorce is not out of order, his error is not necessarily to be interpreted as a merely simple error; nor as necessarily excluding a positive act of the will contrary to the substance of marriage; if such a positive perverse intent is proved, the marriage is to be declared invalid.[52] For it is the positive perverse intention, with or without error, that invalidates marriage.[53]

Ignorance about marriage is the absence of knowledge, and differs from error in this, that it forms no judgment on the matter, while error forms a false judgment. Ignorance therefore is never the efficient cause either of the marriage or of an intent against its substance. Hence a person can validly marry even though he be ignorant of the intrinsic indissolubility and exclusiveness of marriage or of the duty of not frustrating nature in respect of progeny. This is said of theoretical ignorance of the nature and qualities of marriage; for, if a contractual's ignorance of marriage is practical; i. e. if it is so complete that he does not know that marriage is a permanent companionship between a man and a woman, for the purpose of begetting progeny, there is no marital consent (c. 1082, § 1) and no valid

[50] Thus the R., Nicien., Null. c. Many, 21 jan. 1911 (rd. iii, p. 17); Null. c. Many, 22 jan. 1914 (rd., vi, p. 10); Null. c. Many, 29 feb. 1916 (rd., viii, p. 53); Null. c. Massimi, 6 aug. 1923 (rd., xv, p. 224); Null. c. Guglielmi, 22 feb. 1927 (rd., xix, p. 50); Null. seu Disp. a Rato c. Massimi, 10 aug. 1928 (rd., xx, p. 392).

[51] R., Null. 19 apr. 1926 (rd., xviii, p. 144).

[52] R., Null. c. Guglielmi, 22 feb. 1927 (rd., xix, p. 52).

[53] R., Null. c. Lega, 30 aug. 1911 (rd., iii, p. 463).

marriage.[54] For in that case there is in no sense a directing of one's consent to its proper object in marriage. But knowledge of the physiological method of fulfilling the primary end of marriage is not necessary in order that there be matrimonial consent, for a person can convey the marital right to his person in the way of begetting progeny, without knowing the physiological method by which progeny is begotten. Hence ignorance of this seems not to invalidate the consent.[55]

If the ignorance is not merely simple ignorance, but is accompanied by a positive intent contrary to the substance of marriage, this intent invalidates the marriage. A contractual who does not know that marriage is indissoluble can form a positive intention to divorce and remarry, just as well as a contractual who knows of the indissolubility of marriage. And a contractual who knows nothing of the duty of not impeding parenthood, or who knows nothing of the physiological method of attaining to parenthood can form an invalidating intention against the benefit of progeny. And so too a contractual can form a voiding intent against the benefit of progeny, even though he be ignorant of the canonical distinction between not conveying the marital right and not accepting the obligation on the one hand, and intending to abuse the right by non-fulfilment of the obligation on the other.[56]

Of all the forms of intent, the least is the so-called presumptive or interpretative intention; this derives from an interpretation or probability of what the contractual would have intended, if he had forseen future events, or if his mind had been directed to a consideration of the matter: " If I had known the circumstances I would have stipulated divorce." Evidently the contractual did not actually form any perverse intent against the marriage. If there was any latent element of intent or condition in this frame of mind, it had its effect when the contractual first proposed to himself the available marriage contract, as though to say: " I would not now be willing to marry except that I have

[54] Canon 1082, § 1 uses the word *permanens* in a sense that expresses something less than indissolubility. Hence even though a contractual be ignorant of the intrinsic indissolubility of marriage, he still contracts validly, providing only he have some idea, even though confused, that marriage is permanent.

[55] Cfr. R., Null, c. Parrillo, 20 jul. 1929 (rd., xxi, p. 308).

[56] R., Null. c. Parrillo, 5 dec. 1927 (rd. xix, p. 502): " . . . cum non scientia valoris actus, sed voluntas agentis perpendenda sit."

found the other party satisfactory as a life partner"; since the requisites seemed to be fulfilled the actual will to marry was formed absolutely and was thereupon and thereafter repeated and expressed in the wedding ceremony, and without positive perverse intention.[57] An interpretative intention contrary to the substance of marriage is thus much less than the habitual intention, is in no sense a positive intention, and does not nullify marriage.

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[57] R., Null. c. Prior, 19 mai. 1920 (rd., xii, p. 109).

Studies and Conferences

Questions, the discussion of which is for the information of the general reader of the Department of Studies and Conferences, are answered in the order in which they reach us. The Editor cannot engage to reply to inquiries by private letter.

THE MORAL ASPECT OF CERTAIN RELATIONSHIPS WITH RUSSIA.

I.

More than once it has been the lot of peoples to live under governments without moral legitimacy. If it is possible for honest men by licit means to overthrow such a government in favor of something better, that is an act of virtue. But the possibility may be remote. Then those who perforce continue to live under such a regime may be faced with moral dilemmas. The government has by hypothesis no authority in the proper sense of the term. It has no right to rule. Yet it is the only organ capable of maintaining a degree of law and order. It is to the interest and the necessity of social life, therefore, that there be some regard for its members. If these are lawful in their subject-matter a good man may and often must in conscience observe them, for the common good. But he cannot pay to the government which orders them the allegiance a Christian pays to a legitimate temporal power; and he is obviously obliged to resist its measures when these command what is sinful. Perplexing cases arise when he is commanded to support the government directly, by taxes for example, or by military service, acts under other circumstances licit and therefore not wrong in themselves. Besides good will and a general grasp of principles great practical prudence may well be required to solve such cases justly. The government has no right to his aid, and will doubtless use it to entrench itself in its abuse of power; yet on the other hand it may use funds in part at least for legitimate public interests; and it may use its army on occasion at least for the legitimate defence of the national domain. So that a good moralist will not, I think, take

an entirely intransigent attitude toward these complicated cases; they will have to be prudently appraised on their several merits.

On the international plane, whole countries may confront questions of moral import in their relationships with a government void of moral authority. Official recognition, in a merely legal sense, means no more, I believe, than that one government acknowledges another as an established power capable of accepting and discharging international commitments. Proposed commitments could be inherently sinful, and therefore forbidden; or honest and useful, and therefore—barring circumstances—licit; or dubious, like military alliances of various form. Cases of this category, like certain of those mentioned above, would call for pondered judgment according to all the elements involved. It does not appear antecedently certain that they could never be licit.

II.

How immensely aggravated is the problem of dealing with a morally illegitimate regime when the capital reason of its illegitimacy is nothing less than its positive, official and militant profession of atheism! This is notoriously the case of Soviet Russia. There is no authority that is not from God. A government that denies God destroys even in the temporal order the tap-root of its every pretension to the right to rule, and is of its nature an enemy of the human race. No Christian can think otherwise. Does it follow that he may tolerate no traffic with it whatsoever? There still are in Russia honest and God-fearing men. And outside of Russia we find ourselves called upon to take positive attitudes toward international relationships with Russia. The question is not a purely academic one.

After all, any government in order to exist at all, in order even to be a bad government, an atheistic government, is obliged by the necessities of the case to assume some of the functions at least that a good government would have to discharge. There must be a minimum service of order that social intercourse may be maintained. In such matters a good man living even under an atheistic government will conform to the public measures, licit in themselves, that are taken to insure this and, and not out of respect for the government, but out of regard for the common good. If the government asks him to profess atheism

or to violate any indispensable precept of the divine law, he is obviously obliged to resist, unto death if need be.

What of ambiguous cases? They may be excruciatingly acute. For the sin of atheism, formally committed, is consummate sin. To connive at it is an abhorrent thing. May one who loves God ever place an act that he has reason to know will be exploited by another to atheistic purpose?

The honest Russian would overthrow his government in favor of a good one if he could; but he lacks the power. In the meantime, even his daily toil is so integrated into the political structure of the country that he can hardly earn his bread without contributing positively to the power of the Kremlin. I do not think one is forced to be lax in order to absolve him from imputable complicity in atheism in tilling the ground or drawing the net or pouring concrete, even if it be under Stalin's orders, so long as his intention is honest and the act commanded is not known to be immediately addressed to sinful effect.

It is more difficult to conceive that a Russian who knew what he was about could voluntarily serve in the Red army without grave complicity in the apostacy of the state. For no army in the world is so completely dominated by the regime, so systematically impregnated with its doctrine. The case seems morally desperate, in ordinary times. Yet let us make the hypothesis of a foreign invasion directed to mere conquest upon the national domain of the Russian people, when neither these nor their government had given a just provocation. Would the Red army be fighting an unjust war in defending Russian soil? Would it be impossible for civilians to collaborate with soldiers under a common purpose of true patriotism? Would it be forbidden an honest Russian voluntarily to join the fighting ranks if he were prepared to save at any cost his paramount duty to God? I do not find it possible to answer these questions on antecedent grounds with a peremptory prohibition.

III.

As in internal so in external affairs, even an atheistic government in order to function at all has to accept some of the practical liabilities that attach to all sovereign powers, good, bad, and indifferent. Its material interests and necessities are in large measure those that any government in its place would have

to consult; and it may be impossible to consult them efficaciously without some communication of benefits with other powers. Other powers may on their part have an interest in maintaining certain forms of intercourse with it. In the case of Russia, it is safe to assume that they will not be permitted to do so without tangible benefit accruing to the Kremlin. Is all international dealing with Russia therefore forbidden?

Evidently not all, for there is the noble instance to the contrary in the papal relief expedition of the early 1920's. Naturally that involved establishing and maintaining a net of official contacts between the Holy See and the Soviet Union over a considerable period of time; and the relief distributed to the starving children of Russia was concomitantly a real disembarrassment of the regime. It is not hard to understand that certain White Russian refugees of the Orthodox faith were troubled by the Pope's projection of his corporal works of mercy into a zone of such sinister duplicities. We have not to defend it. It is certainly one of the glories of Pius XI's holy and glorious reign. But by that token it is certain that all coöperation with the established power in Russia is not intrinsically evil, is not inherently forbidden.

In the purely secular order, there is the question of international trade. All Russian trade is a government function; its benefits are political benefits to the regime, and are so understood in accordance with the maxim that political power grows from economic roots. It is curious that Italy, of all countries, has been singularly successful in trade relations with Russia. I do not know whether Italian wine is traded for Russian wheat: at all events there are complementary needs of sufficient importance to take a certain practical precedence of doctrinal antipathies. There may be serious moral dangers incident to Italo-Russian commerce. It is certainly not of its nature a contribution to atheism. If possible dangers are safely warded off, as by Italy they probably are, it is not a manifest violation of divine law. Whatever strengthens Stalin's hand, even indirectly, strengths it no doubt for evil as well as for good, and for evil of a peculiarly heinous hue; but that is properly due to Stalin's malice, not to the nature of international trade.

IV.

Of all forms of international relationship with Russia, most deeply fraught with moral menace is the military alliance. An alliance based on positive sympathy with Bolshevist principles would obviously be intrinsically evil, for it would be a formal participation in the Soviet apostacy from God. Any alliance binding both parties to assist one another in all quarrels, regardless of the cause, is of its nature immoral; for by its terms it excludes the moral issue. Such an alliance reaches the peak of cynicism when one of the allies is avowedly atheistic.

There remains the alliance of practical convenience, strictly limited in its scope. Russia has given abundant proof in fact that she will make any ally of hers pay dear for the doubtful advantage of her promises. However strait the terms of the contract may be, the moral liabilities are very grave. Can they ever be lawfully assumed? Is Poland, for example, bound categorically on moral grounds to suffer every alternative rather than consider entering on any conceivable terms a defensive coalition of which Russia is a member? Fortunately Poland knows better than others how grave the peril is; we hope and pray that she may be delivered. Must we condemn her absolutely if she should weigh the pros and cons, and under certain circumstances consent? In view of all that has heretofore been said, such an attitude, taken in advance, would seem to be extreme.

V.

It would be frivolous however to disregard the grave moral dangers involved in reciprocation of benefits with the Soviet Union. Liberals of nebulous drift who would lead us now in the direction of an American alliance with Russia are as little deserving of our confidence as those who twenty years ago admonished us to be patient with the great humanitarian experiment of Lenin. If the question of a Russian alliance should reach the arena of practical politics, is it not probable that many non-Catholic Americans would welcome solidarity with Catholics in opposing such a measure precisely on moral and religious grounds? For only reasons of surpassing urgency could justify the risk. Such reasons need never exist.

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THE ORDINATION OF BARTOLEME DE LAS CASAS.

In the American Catholic Church History Contest recently conducted in *Our Sunday Visitor* one of the questions proposed was: Who was the first priest ordained in the New World? The answer was Bartolemé de Las Casas. A similar question, perhaps prompted by the Contest, was asked one of our leading national Catholic monthly magazines and in its May issue the same answer was given, the questioner being referred to Father Laux's *Church History* at page 600. I doubted that Father Laux has made such a statement and checked on it accordingly. It was an evident misquotation, at least in so far as the substance of the question was concerned.

Father Laux mentions Las Casas under the heading " Missions and Missionaries in the New World " on page 471, but not on page 600. On page 471, moreover, he says nothing whatever of Las Casas's ordination, but confines himself to the statement that foremost among the missionaries who opposed the nefarious practices and cruelties of the conquerors and championed the cause of the natives was the Dominican, Bartolemé de Las Casas (1474-1566), and that through his influence the " New Laws " of the Indies were promulgated in 1542, thereby saving the Indians from extermination and improving their condition considerably.

I should like to submit a few remarks here upon that celebrated ordination.

It has been a twice-told tale that Bartolemé de Las Casas was the cleric upon whom fell the honor to be the first priest ordained in the New World. The assumption is based on something which he says of himself in his celebrated *Historia de las Indias.* But a close scrutiny of his own words and a knowledge of the facts in the early ecclesiastical history of America render the assumption inconclusive. Beyond that apparently simple question as to the identity of the first priest ordained in the New World looms the far more important and involved question: How and when was the Roman Catholic hierarchy established in the New World?

It generally comes as a surprise to the average American Catholic to learn that there was a Roman Catholic diocese in the Western hemisphere since at least the twelfth century. This

diocese was the Diocese of Gardar in Greenland. It had a succession of bishops from Bishop Arnold (c. 1124-1150) to Bishop Alf (1365-1377). During these two centuries and a half the residence of the Gardarian bishops was practically unbroken, although the only other historical fact we have concerning this early American Church is the legislation laid down for it by its Norwegian metropolitans in respect of the Peter's Pence.

After Bishop Alf the See of Gardar declined. Alexander VI, who was the reigning Pontiff in the days of Columbus, in a letter of 1492 appointing Matthias Knuttson, a Danish Benedictine, as bishop to the vacant and long neglected see, says that he had been informed that " no resident bishop or priest has ruled the Church there for some eighty years past. . . . It is said that the people of that land have no other relic of the Christian religion than a corporal, which they exhibit once a year, upon which the Body of Christ was consecrated by the last priest who was resident there one hundred years ago."

Whether or not Bishop Knuttson ever reached Gardar we do not know, but in 1519 King Christian of Denmark petitioned the Holy See for a new incumbent. Leo X, who was then Pope, complied with the monarch's request and sent a Franciscan, Vincent Peterson Kampe, to assume the burden of Catholic revival. The assignment proved in vain. The Lutheran heresy, by this time pouring into Scandinavia, swept the Norwegian hierarchy out of existence and as a result, in the words of O'Gorman, " silence and oblivion fell upon Greenland ".

Such was the preface, so to speak, to the introduction of the Roman Catholic hierarchy into the New World. The first chapter in its history carries us far south to the islands of the West Indies—to the second voyage of Columbus in 1493 to Española or Haiti.

The two Spanish sovereigns, Ferdinand and Isabella, whatever their faults, had a true zeal for the spread of Catholicism. When, therefore, they decided to return Columbus to America in 1493 with a goodly number of colonists to develop the newly-claimed Spanish territory, they saw to it that provision was made for the establishment of the Roman Catholic religion on the island of Española. On board the boats bound westward were a vicar apostolic, several priests and two lay brothers.

The vicar apostolic was Friar don Bernal Boyl, a bishop who had formerly been a Benedictine monk of the Abbey of Monserrat near Barcelona and who afterward left the Benedictines to introduce into Spain the Franciscan Minims, an order founded in France in 1474 by his friend, Saint Francis of Paula. Friar Boyl was a close friend and adviser of King Ferdinand and had been employed by him in previous years in many diplomatic affairs of Church and state. It was but natural, therefore, that the king should choose him as head and representative of the ecclesiastical contingent that was to serve the colonists and evangelize the natives in the New World.

The sovereign accordingly wrote to his ambassador in Rome in 1493 instructing him to get a dispensation for Father Boyl to accompany the expedition to the Indies since his superior, Francis of Paula, could not be reached in time to secure the necessary permission. Ferdinand also instructed the ambassador to petition the Pope to send him the episcopal faculties of a vicar apostolic. The expedition to the Indies did not leave Cadiz until 25 September, 1493. In the meantime the bull, dated 25 June, 1493, appointing Father Boyl vicar apostolic, reached the king and he forwarded a copy of it to Boyl sometime after 4 August. Thus the foundations of the Church in America were laid in the very first year of its discovery.

But the burden of its building proved too much for the first cornerstone. Worn out by the climate, by lack of proper food and by his incessant disagreements with Columbus over the latter's treatment of the Indians and his apparent inefficiency in governing the colony of Isabella, as the first settlement in Española was called, Bishop Boyl after several months appealed to the king and queen for permission to return home. The king and queen still had confidence in him and begged him not to return unless his health demanded it; but they added that if he deemed it necessary to do so, he should leave someone else in charge with his full authority. This he apparently did though all the authority he could delegate were his administrative powers.

He landed in Spain on 3 December, 1494 and his subsequent career has been considerably misted by time. Upon his arrival at court Ferdinand wrote again to his ambassador in Rome, Garcilaso de la Vega, requesting him to ask the Pope for a brief

assigning the episcopal faculties to a successor to Bishop Boyl, a blank to be left for the name of the man the Crown should choose. The brief was despatched and on 9 April, 1495, the king forwarded it to his Privy Council and President of the Council of the Indies, Don Juan de Fonseca, with instructions to name and send a prelate of suitable character and ability on the American mission. Although Father Fitel Fita, S.J., the distinguished Director of the Spanish Royal Academy of History, spent much of the last quarter of the nineteenth century in laborious research upon this aspect of Spanish-American affairs, he was never able to find any record of the person so chosen as second vicar apostolic to America.

From this year 1495, therefore, until 1511 the state of affairs in the West Indian Church and in particular the source and kind of jurisdiction exercised there remain exceedingly nebulous to the modern Church historian.

During these seventeen years there were certainly many priests and religious in the West Indies, their faculties having been obtained no doubt from the Holy See, their own general superiors or their respective bishops. Ludwig von Pastor tells us that the number of religious and converted Indians increased so rapidly that Rome was petitioned in 1501 to establish a hierarchy there. Negotiations got under way between the Holy See and the Spanish Sovereign, but Ferdinand's demands with regard to the sites of the proposed bishoprics, the revenues of the sees and the appointments thereto were such that immediate action was brought to a standstill. The matter dragged on for seven years. Concession after concession was made to the royal demands until a compromise was finally effected by Pope Julius II in 1511. On 8 August of that year the Pope by papal bull erected three dioceses in the New World, San Domingo and Concepcion de la Vega in Española and San Juan in Puerto Rico. To them he appointed bishops, all suffragans to the Metropolitan at Seville in Spain. The first of the bishops to arrive in his diocese was Bishop Alonso Manso of San Juan, who took possession of his see in 1513, thus becoming the first permanent bishop in the New World since the extinction of the Diocese of Gardar in Greenland.

To return now to Las Casas and the question about him that prompted this article. Las Casas was of noble lineage, the son

of Pedro de Casaus, one of the Court favorites who accompanied Columbus as attaché to the Viceroy on his second voyage to America. Bartolemé studied law at the University of Salamanca, a course which included not merely the classics, philosophy and civil law, but also a great deal of church law and theology. In 1500 he obtained his Licentiate with the title of "Licenciado," a degree which not only admitted him to the practice of law, but also opened for him the doors to any judicial or administrative position the Spanish monarchs might see fit to bestow. Through the contacts afforded by his father's position and that of his uncle, Francisco de Penalosa, commander of Columbus's military forces, he became intimate with many of the members of the Council of the Indies and seems to have become more interested on what was going on in New Spain than in the practice of law at home.

On 13 February, 1502, therefore, we find him bound for Española with Nicolas de Ovanda, a knight of the military Order of Alcantara who had been sent thither to supplant the infamous Bobadilla as Governor of the Island. He spent eight years there as a layman and became so sickened by the sight of the lust, rapine and cruelty of his fellow-colonists, that at last his thoughts turned to the priesthood as a medium through which he might work more effectively for the eradication of these evils, particularly where the Indians were the victims.

He, therefore, became first a secular priest, later a Dominican. But the significant question for the Church historian is: When, where and by whom was he ordained? His own words give us no clue to the answer. In Book II of his *Historia de las Indias* he says merely this about himself: "During this same year (1510) and during the very days that Pedro de Cordova was at Concepcion de la Vega, a clerigo, by the name of Bartolemé de Las Casas of Seville, one of the oldest settlers on this island, sang his First Mass, which was the only First Mass that had ever been celebrated in all these Indies (America). . . ."

Here Las Casas says nothing of his ordination. He simply says that he was the first priest to sing a First Mass in the New World. Who then ordained him and was he ordained in America? It seems unlikely that the ceremony took place here, since from what we have said there was neither bishop nor vicar apostolic in the New World from 1495 to 1513.

The solution to the problem may lie in his expression quoted above " . . . a clerigo, by the name of Bartolemé de Las Casas of Seville. . . ." The answer would seem to be that he went to receive orders from the hands of the Metropolitan there and then returned in triumph to sing his First Mass in his beloved Española.

IGNATIUS L. RYAN, C.P.

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WHAT IS CHURCH MUSIC?

There wanders up and down this fair land a bewildered soul, seeking and apparently in vain. He is seeking truth in regard to church music. He reads the learned dissertations on the encyclicals of the Supreme Pontiffs. He scans the official and semi-official " black lists " of various organizations. Making a sincere effort to search out the paragon of church music, he goes to cathedral churches, large city parishes, small country parishes, seminary chapels, cloister chapels, sacred concerts. He discusses the topic of church music with choirmasters, pastors, musical and non-musical members of the parish, and even with musicians whose work is devoted more or less exclusively to secular music. And the result of all this seeking is bewilderment. The officially appointed and self-appointed interpreters of the encyclicals do not agree among themselves as to what constitutes church music in individual instances. The standards of church music in the various churches range from an almost narrow standard, to none at all. Most pastors are too absorbed with meeting the current interest on debt to be much concerned about the quality of church music, as long as a High Mass can be sung. The people seem to be satisfied with what they hear, not knowing any better. In view of these facts, the bewilderment of the seeking soul is understandable and necessary. But the factors that cause this bewilderment are not necessary.

Pope Pius XI closed the encyclical *Divini Cultus Sanctitatem,* issued on 20 December, 1928, with these words: " These things We command, declare and sanction, decreeing that this Apostolic Constitution be now and in future firm, valid and effective, so as to obtain full and complete effect, all things to the contrary notwithstanding. Let no man therefore infringe this Consti-

tution, by Us promulgated, or dare to contravene it." Certainly, there can be no question about the authority speaking, nor about the firmness with which that authority asserts itself. It remains to be determined what is declared to be legitimate church music by this encyclical. And to give us these norms, Pius XI refers us to the Motu Proprio of Pius X, issued on 22 November, 1905.

As a fundamental principle, Pius X says that sacred music is a complementary part of the solemn liturgy. Its purpose is to contribute to the glory of God and sanctification and edification of the faithful. To accomplish this purpose, music, to be proper for church use, must possess " in particular, sanctity and goodness of form, which will spontaneously produce the final quality of universality ".

This fundamental principle or guide being premised, the Holy Father gives three classifications which constitute church music. The first is plain chant. " These qualities are to be found in the highest degree, in Gregorian chant.—The more closely a composition for the church approaches the Gregorian form in its movements, inspiration and savor the more sacred and liturgical it becomes; and the more out of harmony it is with that supreme model, the less worthy it is of the temple."

This is the paragon of church music for which the bewildered soul has been searching. It is the Church's own music and the rightful heritage of a faithful Christian by which to raise his heart to his Creator in song. It was begotten in the inspiration of faith and developed and perfected by the centuries. By its very nature it serves as a handmaid of personal prayer being itself a prayer. It is a prayer for the one singing it and one might say that it forms an organ-point for the one who prays while listening to it. Henri Gheon, *In Search of Mozart,* aptly describes the effect of Gregorian chant when he says, " Gregorian chant succeeds in creating a common state of prayer and does not distract us from the central object of prayer: praise. . . . The only kind of music I can bear at Mass—I do not say in church—is vague organ, banal harmonies and Gregorian chant. They form a sort of basis to my prayers without disturbing them; I don't hear the vague and banal music and I hear the chant without listening to it."

But where can the wandering soul find this music. How many churches must be visited before he finds one where he will hear Gregorian chant beyond the Asperges and the chants of the priest. With some few and notable exceptions, this rendition of Gregorian chant is only too often a travesty. Monsignor Haberl, one of the pioneers in the nineteenth-century Gregorian chant restoration movement, said that to be able to sing Gregorian chant perfectly one must have three qualifications: first, he must be a thorough musician, because it is one of the highest forms of music. Second, he must be a priest in order that he may properly appreciate its relation to the liturgy. Third, he must be a saint so that the prayerful unction of the chant be fully brought out. Now where can one find these three qualifications. Of course, Monsignor Haberl spoke of the perfect rendition. For that, the seeking soul will have to wait until he hears the heavenly choir sing. But to find even the beginnings of these three requirements in one person is so rare as to be truly a gift from heaven. Only too often the one in charge of music, the organist, lacks even the first requirement, musicianship.

Not only is there a lack of good and competent performances of Gregorian chant, but there is also a lack of appreciation. The rabid church musician will resent that statement. Experience, however, bears out this conviction. A questionnaire of the average laity would prove that they do not appreciate Gregorian chant. They are handicapped, in the first place, by the fact that, by the very nature of their condition, they do not have a sufficient appreciation of spiritual values and therefore much of the spiritual value of plain chant is lost to them.

The layman's second handicap, and this holds good even for many musicians, is that the tonality of Gregorian chant is so much different from even the higher forms of music heard to-day. Selecting a concert at random, a choral concert, for instance, what percentage of its music is in the modal tonality? Naturally, then, it strikes the listener's ear as strange, perhaps novel. Novelty alone cannot hold the listener's interest. A real appreciation of its intrinsic value is required. The organist caters to his public and the public doesn't care for Gregorian chant. Where then will the seeking soul find this paragon of

church music, except in seminary chapels and a few exceptional parish churches.

" The above-mentioned qualities are also possessed in an excellent degree by classic polyphony, especially of the Roman school . . . Classic polyphony agrees admirably with Gregorian chant, the supreme model of all sacred music, and hence it has been found worthy of a place side by side with Gregorian chant in the more solemn functions of the Church such as the Pontifical chapel." This is the second classification of church music as offered by the saintly Holy Father. Like the first classification, classic polyphony has been carefully defined. Its inherent qualities have been determined. Even the composers of this category of music have been determined to some extent. Of course, there are always composers who imitate, and imitate well the style of this classification. For this imitation, the encyclical deservedly commends them. May they continue and prosper.

Although classic polyphony has been set up definitely as a model for the seeking soul, he will find it with the same rarity as he finds Gregorian chant. The same difficulties that he encounters in his quest for Gregorian chant, place an almost insuperable obstacle in the way of his sincere quest for classic polyphony. For the average choir, classic polyphony is completely impossible, and the appreciation of the laity is as rare as their appreciation of Gregorian chant. And so the seeking soul goes on seeking.

Now, the third classification. The seeking soul is not merely seeking, but bewildered. And it is this classification that causes the bewilderment. " The Church has always recognized and favored the progress of the arts, admitting to the service of religion everything good and beautiful discovered by genius in the course of the ages . . . always however, with due regard to the liturgical laws. Consequently modern music is also admitted to the church, since it, too, furnishes compositions of such excellence, sobriety and gravity that they are in no way unworthy of the liturgical functions.

" Still, since modern music has risen mainly to serve profane uses, greater care must be taken with regard to it, in order that the musical compositions of modern style which are admitted in the church may contain nothing profane, be free from reminis-

cences of motifs adopted in theatres, be not fashioned even in their external forms after the manner of profane pieces.

" Among the different kinds of modern music, that which appears less suitable for accompanying the functions of public worship is the theatrical style, which was in the greatest vogue, especially in Italy during the last century. This is of its very nature diametrically opposed to Gregorian chant and classic polyphony, and therefore to the most important, last of all, good sacred music. Besides the internal structure, the rythm and what is known as the conventualism of this style adapt themselves but badly to the requirements of true liturgical music."

Modern music, that is, the modern style of compositions, in so far as it is art, is to be fostered by the Church because it is art. There is no denying that modern music is definitely artistic. Hence it is not merely to be encouraged. It is likewise to be used as a handmaid of liturgy, as Church Music. Modern music had its main origin in profane uses. Of profane origin and use, unquestionably are such types of music as the various national and ballet dances, purely sensuous love-themes, compositions of a distinctive rythm and bizarre harmony. These then are to be condemned for church use.

But who will draw the line as to what rythm makes a composition profane? All musicians are agreed that rythm is a prime fundamental of all music. And everyone who claims to be a church musician claims to be the supreme authority, setting his own standard. He will condemn, for instance, many hymns which have a waltz rythm and yet will commend Pietro Yon's " Gesu Bambino," even though this latter has a distinct waltz rythm.

Another limitation imposed upon modern music for church use is that it " be free from reminiscences of motifs adopted in theatres ". This of course brings to mind a serious bone of contention. Most modern maids dream of the day when they may trip up the aisle to the encouragement of the " Wedding March " from Lohengrin, or the Mendelssohn " Wedding March ". But many dreams are shattered as bubbles a few days before the wedding when they are informed that neither of these may be played, both being expressly forbidden by the local musical mentor. Why are they indexed? Because of the rythm? The organist promises he will play a march, but neither

of these. So that isn't the reason. The reason for their condemnation is that they are taken from theatrical compositions. So they are, but how many of the laity have seen the theatrical performance in which these marches are used. Many of the laity would give the opinion that Mr. Lohengrin composed a very nice march. If they are condemned because they are heard on the concert platform or over the radio, then Bach's fugues and tocatas are likewise to be condemned. These marches certainly are not the highest forms of church music, but until the laity are educated to a higher appreciation and standard of church music, why be so positive in condemnation of these numbers?

An interested church musician and organist reports that " the general ' high ' in musical taste seems to be that *execrable* Bach-Gounod ' Ave Maria ', after that the Schubert ' Ave Maria '." The use of the adjective " execrable " seems to indicate either a very conceited judge or no judgment at all. Men who are our proud heritage because of their good taste did not consider the Bach-Gounod number execrable. The Schubert number certainly has a spiritual background. It was inspired by a lovely poem of Sir Walter Scott by which, we may be sure, the Blessed Mother felt herself honored. It inspired Franz Schubert, whose musical genius and taste are undenied, and whom Catholics are proud to claim as one of their brothers in the faith. Surely, then, to condemn these numbers, even as organ solos, is unfair to the Catholic people who are to be led to a higher standard of church music appreciation. The old saw, you can lead a horse to the trough but you cannot force him to drink, holds good here. By condemning unconditionally music of this type, there is a real danger of leading the people away from the appreciation of music. Thus harm likewise will result to church music itself.

Another church musician deprecates the fact that at Ste. Anne de Beaupré the good French-Canadians sing a hymn to the melody of " Home, Sweet Home ". Is it such a horrible crime for these people to sing thus. Undoubtedly they are not at all aware that they are singing the melody of an English home song, taken from an opera. Certainly the evidence of faith which accompanies its singing is inspiring. Doesn't this hymn serve

the purpose of church music, " the sanctification and edification of the faithful "?

And so the seeking soul tragically goes on seeking because he is bewildered. This tragedy need not go on. The solution lies in the hands of those responsible for church music, the pastors and organists. Common sense and balanced zeal are required. They must make a sincere effort to develop a true appreciation of the real value of church music, in themselves and in their listeners. For many organists, unfortunately, divine services are an occasion and church music is a means for them to display their own real or imagined virtuosity as musicians, to the detriment of both the divine services and church music. The posession in a higher degree of the three necessary qualities of a church musician as demanded by Monsignor Haberl—musicianship, an understanding of liturgy and its spiritual and mystic significance, personal piety, particularily personal piety—would do much to aid the seeking soul. The zeal of the church musician must also be tempered by prudence and understanding toward the *Ecclesia Militans*—which after all is still striving for all ideals—would likewise seem to be necessary for the elimination of this bewilderment. Rome wasn't built in a day. And St. Francis de Sales wagered that he would catch more flies with a drop of honey than with a barrel of vinegar. Henri Gheon, who has given ample evidence of a thorough understanding of Christianity and its ideals, says of much of the music which is condemned: " In practice you may think what you like of them; so far as I am concerned I class them all together as symphony, opera, or oratorio grafted on the liturgy. It is profane means put to a sacred end. It results in ' religious music of the concert hall ' and quite suitable in church on certain occasions."

CLETUS DIRKSEN, C.PP.S.

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CONFRATERNITY OF THE BLESSED SACRAMENT.

Qu. Will you please answer the following queries in relation to the establishment of the Confraternity of the Blessed Sacrament?

1. Is solemn exposition permitted at the High Mass every third Sunday, even when the votive Mass of the Blessed Sacrament is forbidden?

2. May this exposition take place at a low Mass if a high Mass is impossible?

3. May exposition take place at the altar where the Mass is being sung? If not, what is to be said of small churches where there is no side altar nor second altar stone?

4. Must exposition close with Benediction after the Mass? If so, may Benediction be given again at the evening May devotions, etc.?

5. What is the order of orations for the exposition Mass on first class feasts during Lent, Advent, etc.?

Resp. 1. If the privilege is that of solemn exposition of the Blessed Sacrament during the high Mass on the third Sunday of each month, evidently this may be done whatever the Mass of the day, even though it is to be celebrated in violet vestments as in Lent or Advent. This conclusion is arrived at by parity with the case of Forty Hours' Devotion, which may be conducted on any Sunday of the year. The solemn votive Mass of the Blessed Sacrament, however, is a special privilege, and the Mass of the feast or of the Sunday must be said, unless the indult granted to the Confraternity of the Blessed Sacrament includes the celebration of such a votive Mass.

2. We see no reason why the exposition may not take place at a low Mass when it is impractical to have a high Mass.

3. Despite the general practice, the Church discourages Mass at the altar where the Blessed Sacrament is solemnly exposed. Cf. the various decrees of the Sacred Congregation of Rites: 1406; 1421, ad 5; 2765; 3124, ad 2; 2448, ad 1; 3482; 3505, ad 1; 3525, ad 4; and 17 April, 1919. Exceptions are allowed in the case of the reposition, as at the close of the Forty Hours' Adoration, or where there is no other altar at which Mass may be said, or where long-standing custom sanctions the proceeding. (Cf. Wapelhorst, *Compendium S. Lit.*, n. 128.)

4. Exposition must always close with Benediction. With permission of the Ordinary, Benediction may be given again the same day.

5. Whenever Mass is celebrated during solemn exposition of the Blessed Sacrament, whether at the altar of exposition or at another altar in the same church, the oration of the Blessed Sacrament must be added to the orations of the day, however high the rank of the feast or the Sunday. This oration is placed after the orations prescribed by the rubrics and before the

imperata. It is omitted when the Mass of the day is of a mystery of our Lord, such as the Passion, the Holy Cross, the Sacred Heart, the Precious Blood, and, naturally, when it is the Mass of the Blessed Sacrament.

MARITAL RIGHTS OF A SYPHILITIC.

Qu. In relation to the controversy between Father Francis J. Connell, C.SS.R., and Father Moore, O.S.B., would you kindly print the enclosed excerpt from Father Noldin's tract "De Sexto Praecepto," page 87-88 in the 1929 edition and have Father Francis Connell explain it or some one on your staff? After reading this controversy I am a little confused. As Father Noldin seems to say something different from Father Connell, I would like this paragraph explained.

I understand Father Connell's point in maintaining that only the Church can make impediments for the marriage of baptized persons. However, when he says that married people, one of whom has syphilis, do not sin in using their married rights, I am confused in the light of this statement of Father Noldin:

> "Tempore morbi actus coniugalis per se illicitus est, si vitae vel sanitatis periculum affert: ex gravi causa vero licitus est; si nimirum coniuges alias diu abstinere deberent cum periculo incontinentiae, modo non inducatur proximum periculum mortis. In particulari vero distinguendum est inter morbos contagiosos (syphilis, phthisis) et non contagiosos. De qualitate morbi consulendus est medicus. Itaque—
>
> a. (Now my difficulty will become clear) "Si una pars laborat morbo syphilitico (morbus gallicus theologorum) vel gonorrhoea, *usus matrimonii illicitus videtur* propter horrendas sequelas, quas tam comparti quam proli affert. Insuper periculum infectionis certum est, morbus autem, si levis est, intra breve tempus removeri potest.
>
> "In hac affirmatione recentiores (Lehmkuhl, Ballerini-Palmieri, Marc etc.) consentiunt ducti rationibus, quae a medicis afferuntur. Hi unanimes sunt in describendis gravissimis malis, quae coniugibus et proli ex hoc morbo oriuntur et paulatim innumeras familias, quin et integram nationem afficiunt."

In the next two sentences Noldin reconciles St. Alphonsus with modern authors. He concludes: "Num usus matrimonii etiam in summo gradu morbi gallici absolute loquendo concedi possit, quia non inducit proximum periculum mortis intra breve tempus subeundae alii judicent. Certe coniux sanus non tenetur reddere debitum."

Resp. The questioner whose difficulty you proposed to me has overlooked an important qualification that I added to my statement concerning the lawfulness of conjugal intercourse when one party is infected with a social disease. I stated that in order to render marital relations lawful in such circumstances *there must be a justifying reason* (December issue, p. 514). Now, when my view thus qualified is compared with that of Noldin quoted by the questioner it will be seen that in reality we agree, although we state our respective views somewhat differently. He says: "Conjugal intercourse is forbidden, unless there is a grave justifying cause"—I say: "Conjugal intercourse is not forbidden when there is a grave justifying cause." In substance these views are identical.

It should be noted that when Noldin proposes the question whether there may not be causes to justify intercourse even when one party is afflicted with the worst degree of syphilis, he gives no definite answer to the contrary. He simply says: "Let others judge." Now, in fact the majority of Catholic theologians do allow conjugal intercourse even in this extreme case, provided there is a proportionately justifying cause. And this more common view of Catholic theologians is what I defend in my article.

In connexion with this quotation from Noldin it is well to read what is said in the latest edition (1937) of Noldin-Schmitt, n. 92 ("Ex medicis et biologis saltem . . ."), where the author decries over-insistence on motives of health and neglect of supernatural motives on the part of modern scientists in reference to the lawfulness of conjugal intercourse when there is danger of diseased offspring. It is to be regretted that even some Catholics seem to be inclined to this naturalistic attitude.

FRANCIS J. CONNELL, C.SS.R.

POSTURE OF CONGREGATION AT THE "ASPERGES".

Qu. Would you be so kind as to answer the following questions through the REVIEW.

What is the attitude or position of the congregation during the Asperges on Sunday, in a Parish Church, *standing* or *kneeling?* The custom in some churches is for the people to make a genuflexion and make the sign of the cross as the priest passes them. In other places they remain kneeling throughout. Which is correct?

Resp. There appears to be nothing but custom to regulate the attitude of the congregation during High Mass. As the clergy *in choro* stand for the " Asperges," that would seem to be the proper posture for the laity also. The rubrics in front of the Missal give directions for the clergy assisting at High Mass but none for the laity.

SHOULD ALTAR BOYS STAND FROM ELEVATION TO COMMUNION?

Qu. At High Mass (not Requiem) should the altar boys stand or kneel from the Elevation until after the priest's Communion?

Resp. " Like the choir, they (the acolytes) kneel from the beginning of the Canon till after the Elevation, then stand. But on the days when the choir remains kneeling till the Pax, the acolytes do so too." (Fortescue, *Ceremonies of the Roman Rite Described,* page 102.) This direction is given for Solemn High Mass. At a Sung Mass, Fortescue does not say specifically whether the acolytes stand or kneel, but supposes that they carry the torches, in which case they kneel and retire to the sacristy at the proper time. In this country, the acolytes usually remain kneeling at a Missa Cantata.

PRAYER SAID IN MASS WHEN INTENTION COVERS BOTH SEXES.

Qu. Which prayer in a missa quotidiana is to be said when the intention is *pro Joanne et Mariae defunctis,* brother and sister, husband and wife, or just two persons of different sexes? I could find no prayer in the missal to fit this case. The nearest is No. 10, which covers several deceased, but this supposes several of both sexes, whereas in the above case there is but one of each. Would it be lawful to say the first prayer *pro uno defuncto* and the second *pro una defuncta?*

Resp. According to a general decree of the Sacred Congregation of Rites, 30 June, 1896, the first oration in *Missa quotidiana* is to be recited for the repose of the souls for whom the Mass is offered.

Later, the Congregation was asked this question: " Si missa de Requiem legatur pro uno et una defunctis, an liceat mutare orationem hoc modo; ' animabus famuli tui et famulae tuae '? " The Congregation answered, 14 June, 1901: " Dicatur " famuli

tui et famulae tuae " quando non exprimuntur nomina; secus dicatur " famulorum tuorum ".

Consequently when a priest offers a Mass for brother and sister, husband and wife, etc., he should select oration No. 16 or No. 17, and make the changes indicated above.

WHEN CONGREGATION STANDS OR KNEELS AT HIGH MASS.

Qu. At Solemn High Mass (not Requiem) should the altar boys rise when the celebrant is being incensed at the Offertory? Should the congregation do so also? In assisting at either High Mass or Solemn Mass should those present follow the altar boys in these attitudes?

Resp. Fortescue, in *Ceremonies of the Roman Rite Described,* pp. 89-90, lays down the general rules to be observed by the liturgical choir at Solemn Mass. The altar boys usually seen in the sanctuary, while not forming a strict choir, yet can and should follow these directions when and where possible. Hence, " *after* the celebrant has been incensed, they stand, and remain standing till they and the deacon have been incensed. While they are incensed they bow. Then they sit till the celebrant has finished the Secret Prayers." Consequently, they do not stand while the celebrant is being incensed. They will rise before the people do, if they are to be incensed individually. Otherwise, they will rise with the congregation if the sub-deacon incenses them at the same time as he incenses the people. In either case, both boys and congregation rise after the celebrant has been incensed. The Church has no set of rules to be observed by the congregation at Solemn Mass, but as a rule the directions given for the liturgical choir should be followed; ordinarily the altar boys in the sanctuary and the congregation can act in unison. Local custom should be followed.

INCENSATION BY SERVER AT BENEDICTION.

Qu. In Benediction of the Blessed Sacrament, should the server incense the Holy Eucharist as the priest raises the monstrance?

Resp. Fortescue, in *Ceremonies of the Roman Rite Described,* page 261, in a footnote, says: " The Congregation of Rites has been asked on two occasions whether this practice is lawful. The

first time it answered: "It is not commanded" (No. 2956 ad 9); the second time it repeated: "It is not prescribed," and added, "Let the local custom be observed" (No. 3108 ad 6). It is certainly the local custom in England." Martinucci (1, p. 120) advises that this incensation be omitted. The same may be said of the commentator in the *Clementine Instruction for the Exposition of the Blessed Sacrament at Forty Hours*, vol. LV, page 117, No. 23. Cavalarius, however, is there quoted as holding that the incensation is permitted, even though not mentioned in the Ritual and Clementine Instruction itself. Hence, in practice, the custom of the local diocese should be followed, and where no custom exists, the incensation may be either made or omitted.

CANDLE-BEARER AND BOOK-BEARER AT CONFIRMATION.

Qu. When should the server holding the bishop's candle at Confirmation, and the book-bearer go to him?

Resp. Whenever the bishop must read or chant from the Pontifical. After addressing those to be confirmed, he faces the candidates and joins his hands. The book-bearer holds the book before him, the other server holds the candle at his left. The bishop says or sings the versicle "Spiritus sanctus" etc., and the accompanying prayer. During the prayer the bishop extends his hands over the candidates. After confirming those who have been duly presented, the bishop turns toward the altar and says or sings "Ostende nobis" etc. The book-bearer and candle-bearer stand before him, the latter to the extreme left. As the bishop is about to give the blessing, both servers will turn with the bishop, so that the book may be in front of him, while he pronounces the words "Bene✠dicat vos Dominus ex Sion," etc.

SUNDAY MASS PRECEPT ABOARD SHIP.

Qu. 1. Is there an obligation to attend Mass on shipboard on which priests, as passengers, say their Mass at announced times?

2. If an officially appointed chaplain says Mass, does this alter the obligation of the faithful on board, and does it oblige the priest to celebrate every day?

3. May a cruise chaplain binate on Sundays or days of obligation in order to allow the crew to attend Mass, perform Easter duty, etc.?

Resp. 1. No, unless there is a semi-public oratory on board.

2. If by " officially " is meant by ecclesiastical authority, it is likely that the altar is erected as a semi-public oratory and passengers are obliged to fulfil the obligation; if " officially " means appointment by the steamship company, the passengers are obliged if Mass is said in a semi-public oratory.

3. Ordinarily no; but the chaplain might consider whether or not he could so act by epichy.

TWO PARISH CHURCHES UNDER SAME PASTOR.

Qu. In the fifth edition of *Matters Liturgical,* by Wuest-Mullaney, it is stated that where two parish churches are governed by one and the same pastor, he is obliged to say the office of each titular with an octave, and not merely the office of the titular of the church where he resides. Would not our ordinary missions attached to a parish come under this classification as a parish? The mission has its own church, is incorporated with trustees in our diocese, and considers itself independent in parish activities from the parish where the pastor resides?

Resp. The fact that a church congregation has been incorporated under the laws of a state and pursues its own activities without the coöperation of the home parish does not make it a parish church. Such non-parochial churches are considered in canon 483 of the Code of Canon Law. In churches of this type, the rector, or priest in charge, may say Mass at an hour convenient for the people of the district, on Sundays and feast days, conduct classes in religion, deliver sermons and even reserve the Blessed Sacrament there when the bishop approves. At the same time the people no doubt will raise the money necessary for the upkeep of such a church by the usual means. But the church does not become a parish church until and unless the bishop clearly constitutes it a parochial church. Only then would the pastor, canonically appointed to this parish church, be obliged to say the office of the titular.

Ecclesiastical Library Table

RECENT BIBLE STUDY.

I.

In *The Month* for January, 1939, W. F. Rea contributes a critical note on the English Printed Bible (pp. 70-73). Recalling that the four hundredth anniversary of the introduction of this Bible into the parish churches of England was celebrated last year, he notes that the setting up of the Bible was hardly a subject for celebration; far from satisfying a great and long-felt want, it was the effort of a faithless and irreligious politician to thrust an unwanted translation upon a reluctant clergy and an apathetic people. It was Cromwell and not the English people who wanted the Bible, and he wanted it because of his personal interest in the financial returns.

To show the apathy of the people, the writer quotes a passage from Gairdner's *Lollardy and the Reformation* (Vol. II, p. 223), in which are given the words of one George Constantine. An excerpt from the quotation will serve better than any commentary: "How mercifully how plentifully hath God sent His word to us in England! Again how unthankfully, how rebelliously, how carnally and unwillingly too, we receive it! Who is there who will have a Bible but he must be compelled thereto?" The reported conversation refers to Cromwell's order that the Great Bible be set up in the churches.

Further illumination on the same point is obtained from the striking fact that whereas in Germany, between 1466 and 1522, twenty complete translations (not to mention a number of incomplete ones) of the Bible appeared, and in France, between 1477 and 1521, about nine were printed, nothing biblical was published in England before the breach between Henry and Rome save a Latin edition of the epistles and gospels of the year (issued in 1509).

Thomas Cromwell, however, was very much interested. As early as 1527 he was already in communication with the man who was to be the Bible's translator—Miles Coverdale; the latter petitions, probably in this very year, for means to get books so that he may continue to work on the Scripture. And since

Cromwell was a money-lender of national note, the facts that Coverdale both continued his scriptural activities and kept up his contacts with Cromwell, the latter's financial interest in the work would seem at least very probable.

Not until the break from Rome, however, was official approval given for an English translation of the Bible. In 1534 Convocation requested and received permission for such a translation. The New Testament, with the exception of the Acts of the Apostles, was accordingly translated and sent to Cranmer at Lambeth. Here it mysteriously disappears forever. Not too mysteriously if—as the writer indicates—one recalls the connexion between Coverdale and the all-powerful lay "Vicar-General," Cromwell. The latter wanted a Bible, but his own, in which his money was invested.

Accordingly in 1538 (not 1535, the date appearing in the article under consideration) printing was begun in Paris, the presses in England being unable to assume the task. In the same year came the proclamation ordering the setting up of the Bible in all the churches. This was from Cromwell who had borne the expense of the printing. The Bible itself appeared in 1539.

The reaction of the clergy is interesting. The first opportunity given them to discuss the Bible came in 1542, two years after Cromwell's death, and the expressed opinion was so unfavorable that a revision was ordered. But this work was interrupted shortly by royal command, and the revision was handed over to the Universities over the vehement protests of all but three of the bishops. Such a transfer being tantamount to a discontinuance of the revision, one may well wonder wherein lay the grounds for rejoicing over the four hundredth year commemorating Cromwell's proclamation.[1]

II.

Two recent articles examine specific points of the Annunciation narrative in St. Luke; one discusses the opening address of the angel to Mary, and the other considers her question to the

[1] In fairness it should be stated that though prior to Henry's break, in the period corresponding to the biblical activities noted in Germany and France, no English Bible was printed in England; some English editions were printed abroad but unfavorably received in England.

angel. The first is from the pen of S. Lyonnet, S.J., and occurs in *Biblica* for 1939 (fasc. 2, pp. 131-141) under the Greek title Χαῖρε κεχαριτωμένη. The writer acknowledges that the generally accepted meaning given to the first word of the angelic salutation is "hail," but his preference turns toward the radical meaning of chaîre, and he accordingly translates the word as "Rejoice." In support of his preference he adduces both the Scripture and the Greek Fathers in particular, with passing reference to Eastern art.

Noting that the coloring of the narrative as a whole is deeply Semitic, he is struck by the fact that instead of the Greek εἰρήνη (peace) which translates the Hebrew salutation "Shalom" everywhere throughout the Old Testament, the purely Greek salutation *chaîre* is employed. Accordingly he examines the Septuagint use of this latter word in order to discover if a meaning other than "Hail" prompted its use in the Annunciation narrative. Two interesting facts emerge from the inquisition: in the only four places in which it occurs (Soph. 3; 14; Joel, 2:21; Zach. 9:9; Lam. 4:21), its meaning is "Rejoice," and in the first three instances the texts introduced are Messianic. The fourth text (Lam. 4:21) is not Messianic, but according to the author is an imitation of the other three; he gives no proof for the latter statement. He accordingly concludes that in the Angelic Salutation the first word should be translated "Rejoice," he further suggests that as Mary would be conscious of the Messianic flavor of the opening word of the angel, this would help to explain her perturbation at the very beginning of the message. His conclusion is strengthened by an examination of the Greek Fathers, particularly of Gregory of Nyssa, St. Sophronius, and St. Andrew of Crete; in all citations noted the idea of jubilation is clearly attached to the opening words of the salutation.

The suggested translation is undoubtedly attractive; nevertheless it seems to rest on a very slender foundation. The three admittedly Messianic texts, as well as the citation from Lamentations, have this in common—they are apostrophes not to any individual but to a nation; hence the vociferation intimately linked to the radical meaning of *chaîre* is not out of place in these instances, whereas it would be much less in keeping with the wholly personal contact in the Annunciation. When we

look behind the Greek text we find that in two out of three instances the Hebrew word, " gîlî," has no technically Messianic link; in the third Messianic text (Soph. 3:14) the word " ranni " is used, and it has a quasi-technical Messianic use. Hence the word *chaîre* does not necessarily carry a Messianic import. That Mary should have thought that it did seems doubtful not only because she would have been more familiar with the Hebrew (or Aramaic, in which language, doubtless, the angel addressed her), than with the Greek, but also because the Evangelist states explicitly that she wonders *what kind of* a message it is. That the Greek Fathers should find the note of joy is understandable either because of the second word of the salutation, " full of grace " (over which they would congratulate her jubilantly), or because they chose to exhaust the full meaning of the word *chaîre* independently of its actual use on the lips of the angel.

In the course of his article, Father Lyonnet calls attention briefly to a point which should receive wider recognition in ascetical handling of the Annunciation narrative namely, that Mary's fear was not a fear of her virginity, since the announcement of her divine maternity is made only after her fear has been allayed. The cause of her fear lies rather in her humility which is disturbed at the unwonted title of " full of grace ".

The second article on the Annunciation is by Father U. Holzmeister, S.J., in the March issue of *Verbum Domini,* 1939. It is entitled " Quomodo fiet istud, quoniam virum non cognosco? " and is a rejection of the main thesis of Donatus Haugg's *Das erste biblische Marienwort* (Stuttgart, 1938). The latter contends that Our Lady's words do not indicate either a vow or a promise of virginity made by her, but refer to her inability here and now to accomplish the designs of Heaven because she has not yet been received into the home of St. Joseph. The reason for the contention is that her remark refers exclusively to the present moment and has no connexion with the future.

Father Holzmeister's refutation is not only complete but—especially in one point—penetratingly delicate. Pausing briefly to note that in the message of the angel not a single word indicates that conception is to take place immediately, and that even if Mary understood the message to connote immediate conception no impediment would have existed, according to the customs of the time with respect to betrothed couples, the author turns

immediately to the philological aspect of Haugg's thesis. The point at issue is whether the " non cognosco " is a simple present tense without connotation of extended time, or is a " durative " present indicating a state which is not only present but also continuous beyond the present. Haugg admits the possibility in general of a durative present, but denies that St. Luke, the author of the Annunciation narrative, ever uses it. Such a statement, however, is untenable; not only does Father Holzmeister adduce several examples to the contrary,[2] but others might be indicated, such as L. 8, 24; 11,17; 20, 33.

The durative notion in the words " non cognosco " is further emphasized by the author by calling attention to the actual circumstances of the case. If Mary were worried only about the present, the question would be pointless, since the conception belonged to the future. Hence her words not only can, but must, mean ' I know not and shall not know '. She is therefore stating a present fact which, as far as her knowledge goes, is to continue.

A point of real delicacy is brought out by the writer in indicating why the present rather than the future form of the verb was used. Mary felt that she was bound before God to a life of virginity, but it would have been utterly foreign to her perfect submission to the will of God to state definitely that she would not change her status if He so willed. Her very question is an indication of her perplexity concerning her state: conscious that her virginity has been pleasing to God, and having no intimation even in her espoused state that He desires any change in her intentions, she is nevertheless faced with an expressed desire on the part of God which would demand, naturally speaking, a change in condition. Interpretively, therefore, her query might be stated thus: " Do you desire that I yield my virginal state, or is there some other way? " Previously to the reply to her query, her inclination is to retain that which has thus far been wholly acceptable before God; hence she says " non cognosco " with its acknowledgement of present virginity and its intimation of continuance for the future unless His will be made manifest to the contrary.

[2] His first example, L. 12:6, is debatable. Some hold the verb to be a periphrastic perfect passive. So A. T. Robertson, and probably Zorell.

III.

Two series of articles examine the text of Genesis 14:18 which concerns the mysterious figure of Melchisedech. One appeared in *The Irish Ecclesiastical Record* (May, 1938; July, 1938; May, 1939), from the pen of the Rev. Patrick F. Cremin, D.D.; the other is by Father A. Vaccari, S.J., and appeared in *Verbum Domini*, issues of July and August 1938. With only the first of each of the series [3] need we concern ourselves; both consider the literal meaning of the text itself, independently of other considerations. And as the conclusions of both writers are substantially in accord, we may consider them " per modum unius ".

The text of the Vulgate (in the Douai translation) runs thus: " Melchisedech the king of Salem, bringing forth bread and wine, for he was the priest of the Most High God, blessed him and said: Blessed be Abram by the Most High God who created heaven and earth " (vv. 18-19). In the original Hebrew the word " bringing forth " is a finite verb and not a participle, " brought forth "; in addition to this, instead of the word " for," the Hebrew has " and," and though the latter word is capable of carrying a causal nuance it does not necessarily do so.

Both writers are in agreement on the point of the absence of any explicit mention of sacrifice in the text: a) both deny that the notion of sacrifice belongs to the Hebrew word " hôsî " (brought forth) even in the one seemingly doubtful passage of Judg. 6:16: b) both likewise reject the idea that the " bread and wine " are being offered here and now to God in sacrifice. Nevertheless both insist, each in his own way, that the text implies a sacrifice.

Dr. Cremin bases his contention on the presence of the phrase " and he was a priest of the Most High God " in immediate conjunction with the bringing out of the bread and wine. He admits that the Hebrew particle " and " does not necessarily indicate a causal connexion, but considers the causal nexus legitimate and necessary for three reasons: a) the presence of the word " priest " is not sufficiently explained by the idea of a blessing, since to bless was not an essentially and exclusively sacerdotal act; b) the use of the word " hôsî " elsewhere (as in

[3] " Melchisedech, rex Salem, proferens panem et vinum." V.D. July, 1939, pp. 208ff. " According to the Order of Melchisedech ". I.E.R., May, 1938, pp. 468ff. Actually this last article and its series is wider than a textual discussion of G. 14.

Lev. 16:27; 4:12 and 21) for the bringing forth of material which had just been sacrificed; c) the attestation of Massoretic punctuation (which links the phrase " and he was a priest . . ." with the preceding statement) to a traditional interpretation among the Jews which is continued by Jerome.

Father Vaccari looks in a different direction for his proof. He admits the argument noted under " a " above, but rejects that under " c ". His contention is that the priesthood of Melchisedech is mentioned not because of *a* benediction, but because of *such* a blessing; only twice in the Old Testament is the name " Most High God " ('El 'Elyôn), used the other place beings Ps. 77:35; hence its use may be considered as special to Melchisedech, and to denote this fact the King of Salem is mentioned as a priest *of the Most High God*, with emphasis on the latter rather than on the former notion. Over and above Patristic testimony adduced (with which we are not concerned), Father Vaccari finds his support for the presence of a sacrifice in the historical circumstances of the event indicated in the context: a) amongst religious peoples (such as were the Jews and oriental peoples generally) sacrificial banquets in conjunction with big events were an instinctive procedure; b) in the actual situation there is question of a signal victory, the effects of which not only redound to the credit of Abraham and his followers, but also are beneficial to the whole country; c) evidently from the blessing given and the gifts received, there was a pact of friendship made between Melchisedech and Abraham, and such a pact was always cemented by a sacrificial banquet.

Both authors are then in agreement over the presence of a sacrifice. That sacrifice preceded the bringing forth of the bread and wine, and the latter was a part of it, presented at the moment indicated in the text as refreshment. Hence, as Dr. Cremin notes, the bread and wine are neither exclusively a sacrifice, nor exclusively a refreshment, but are both sacrificed material and refreshment. In support of the notion of sacrifice, the positive arguments of both writers could be combined, in the opinion of the present writer, into a formidable textual proof. Subtle as Father Vaccari's observation is on the nature of Melchisedech's blessing it does not seem of sufficient weight for the following reasons: a) St. Paul, who notes that Melchisedech is a priest of the Most High God, does not lay stress on the special

kind of blessing given (Hebr. 7:1); b) it was necessary to indicate in some way that the king was a priest of the true God (since in the mind of God he was to be used as the type of the eternal priest), and not merely a pagan priest; c) since the specific title of God used is found only twice in the Old Testament, and once not in connexion with Melchisedech, it can scarcely be called peculiarly "Melchisedechian"; d) in a text where words are so few and mean so much, one would tend *a priori* to link the statement about the priesthood with what precedes (since it would emphasize the idea of sacrifice) rather than with what follows (where it adds nothing to the idea expressed in the text); to say that the simple word "priest" without the qualifying phrase would suffice to emphasize the notion of sacrifice (as Father Vaccari does) is hardly true in view of the intention of the Divine Author, for which it was imperative to note that Melchisedech was a priest of the *true* God.

In conclusion it may be stated that in those portions of the articles of Dr. Cremin and of Father Vaccari which the present writer has not considered, both authors bring forward abundant and unmistakable testimony of the Fathers to a fuller sense of the text from Genesis than can be obtained from the examination of the merely literal meaning of its words. The result is an unshakeable theological argument proving that Melchisedech did offer bread and wine in sacrifice.

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Book Reviews

THE BELIEVER'S CHRIST. By L. Koesters, S.J. Translated by J. W. Grundner. Herder: St. Louis. 1939. Pp. 416.

In this work we have scientific proof of the divinity of Christ. The title would lead one to conclude that the author addresses his volume to Catholics, but the advertisement includes non-believers within the scope of the work. It is strictly along the lines of Apologetics, yet it does not follow the order of a manual of theology. The author sets out first to treat our faith in Christ analytically and then synthetically to establish the historical basis for that belief. His emphasis is on the historical proof. After explaining the question of the importance of knowing accurately who Christ is, Father Koesters takes five chapters (The Fact of Our Faith in Christ, A Happy Heritage, Attacked in Vain, Confirmed by God, Radiant Truth) for his analysis of Catholic faith in Christ. Then he consumes seven chapters (Proved by Authentic Documents, The Fact of the Ancient Church's Faith in Christ, Based on the Words of Jesus, Jesus' Teaching Explained by John, Jesus' Testimony is Reliable, Jesus' Testimony Confirmed by Miracles, The Seal of the Son of God) in proof of this Catholic faith. Finally, he devotes two chapters (The Mystery Explained by Faith, The Mystery and the Life of the Faithful) to an evaluation of this Catholic consent to the divinity.

As this is a translation from a work by a German Jesuit, we would expect thoroughness and we are not disappointed in such a hope. He makes no statement which cannot be documented. His position is that rationalists proceed from false assumptions and hypotheses, and he seeks to avoid that method. Documentation and appeal to sources are found on every page. German works naturally predominate, but there is plentiful use of Latin and French works and a sprinkling of the better known volumes in other languages. The bibliography at the end is complete, although most of the English works seem to be there for padding, as he seldom refers to them in the body of the book.

Much could be said in praise of the industry demonstrated in this sober treatise and little by way of adverse criticism of the facts. Scientific proofs for the divinity of our Lord are here solidly established. As the advertisement notes, it is a book for thinking people. It is addressed solely to the intellect. One sees a reflexion of the training of the author—major, minor, conclusion. One will not pick up the book for devotion or delight.

Unbelief is often a mood, a pose, an attitude. Even among Catholics the grounds alleged for a weakening of the faith are not the real reasons, although the author holds that we must use caution in assert-

ing that moral lapses bring on unbelief (p. 59). The weakness of this book would seem to be found in its failure to meet a mood, a pose. The author shows intellectual power but not psychological insight. His arguments are solid, and yet in the mass of details on page after page the reader becomes clogged and no clear-cut statement remains in the mind. One feels that no Chesterton nor Adam is here taking pen in hand. The ease of a Grandmaison is missed. No phrase scintillates; no crisp sentence sums up the points. The matter is there, but little descriptive power to drive home the argument. It is true that scientific procedure takes no note of emotion, but yet a multitude of details may confuse. There is proof for Christ's divinity, but one does not see Christ showing Himself to be divine.

The character of Christ should have been given fuller consideration, although the chapter in which he treats this subject (Radiant Truth) has some splendid points and is perhaps the one chapter that one is tempted to linger over. He points out the traits of the Master, but he does not do a good job in making the Master live. He has knowledge but not descriptive power. He shows well but briefly that the "original character of the love of Jesus consists in this . . . that He made love of man equal love of God" (p. 140). Likewise, his analysis of the manner in which the Christ of St. Paul differs from the Christ of the Gospels is timely (178ff).

The translation is clear and forceful. Here and there an expression may be at fault, for instance: "He was thrilled with horror at the thought of death" (106). The author is also rather optimistic on the question of the Protestant rank and file still maintaining belief in the divinity (48). In the bibliography Guignebert should have been listed as an unbeliever.

CATHOLIC FAITH. Based on The Catholic Catechism of His Eminence Peter Cardinal Gasparri and Edited by the Rev. Felix M. Kirsch, O.M.Cap., and Sister M. Brendan, I.H.M. Book One, pp. 108; Book Two, pp. 231; Book Three, pp. viii + 371. Published by The Catholic University of America Press, Washington, D. C. Distributed by P. J. Kenedy & Sons, New York.

For many years our priests and teachers have been pleading for a Catechism that should meet adequately the needs of the Church in the United States. In the year of its Golden Jubilee, the Catholic University of America is offering a Catechism that seems to realize all these desires and prayers. In choosing the basic text for its adaptation the Catholic University has been well advised. *The Catholic Catechism* by Cardinal Gasparri enjoys an authority that is beyond

dispute, and its accuracy, so far as its theological content is concerned, cannot be questioned. The original manuscript was revised by a special body of the Consultors of the Congregation of the Council, under the Presidency of the Cardinal Prefect. It was submitted for criticism to several professors of theology in various Catholic universities, and in this regard the Gregorian University under the Jesuit Fathers, the Dominican Collegio Angelico, the Roman Seminary, the Pontifical Institute for Oriental Studies, and the Urban College for the Propagation of the Faith were particularly helpful. In this way some of the principal consultors and theological professors in the Roman schools generously gave assistance in its compilation. *The Catholic Catechism* has been approved for use throughout the Catholic world.

To facilitate its adoption everywhere, Cardinal Gasparri graciously granted permission to have *The Catholic Catechism* translated into the vernacular for use in all countries, and declared, moreover, that any individual bishop must feel free " to amplify the material or to cut it down as he thinks fit ". His Eminence also suggested that teachers in instructing " the children should add explanations of doctrines, stories from the Bible, or devotional comments ".

To meet the needs of our teachers of Religion, the Catholic University of America assumed the task of having *The Catholic Catechism* edited for use in our country and designated the Reverend Felix M. Kirsch, O.M.Cap., Ph.D., Litt.D., the theological editor. Theologians and teachers in various sections of our country and the graduate classes in Religion at the Catholic University collaborated in the task through the years 1934 to 1939, and the result of these united efforts is *Catholic Faith* in three books.

While we urge our priests everywhere to examine the three books very carefully, we believe that Book Three will be most widely useful to our clergy. Book One is intended for use in the primary grades; Book Two, for use in the intermediate grades; while Book Three is intended for use in the upper grades of Catholic elementary schools as well as for the advanced instruction of Catholic children attending public schools. Advance copies of the book have also been used successfully by adult groups as the basis of the study done in discussion clubs. Priests have likewise found the book helpful in instructing converts as well as in preparing sermons and catechetical instructions. We dare say that priests will find the more than 3,000 " Problems and Topics for Discussion " contained in Book Three a treasure-trove for making their sermons vital and appealing.

Priests will serve the good interests of our teachers of Religion by informing them that free sample copies of the three books of *Catholic Faith* may be obtained from the publishers, P. J. Kenedy & Sons, 12 Barclay Street, New York, N. Y.

THE BISHOP JOTS IT DOWN. An Autobiographical Strain of Memories. By Frances Clement Kelly, Bishop of Oklahoma City and Tulsa. Harper & Brothers, New York. 1939. Pp. viii + 334.

One opens books of autobiographical memoirs after steeling oneself for the prospect of a considerable exhibition of ego-centricity, in which only the winning games of the author will be recorded. It is, therefore, a pleasant surprise to find the present volume an exception to a rule almost as unvaried as the traditional one of the Medes and Persians. A book about oneself inevitably gives frequent exercise of the first person, but Bishop Kelley employs that grammatical form with the minimum of irritation to the reader. Even the title is an humble one, for the author's memoirs are written in a style which rides far above jotting. To single several instances of excellent composition, one might mention the early chapters, in which old " characters " of the author's youth are depicted with a Dickensian touch, the chapter on the Detroit of 1893, and the opening sections of two chapters toward the end of the book, which are entitled " The Fourth London " and " Ghosts." The captions of the chapters throughout the volume, by the way, are singularly happy denominations.

The Bishop records the impressions and experiences of his nearly sixty-nine years of life, beginning with his boyhood days in the land of his birth, Prince Edward Island, " The Island," his progress from Island to inland for seminary training at Chicoutimi and Nicolet, and his ordination and early priestly years in the diocese of Detroit. The months of service as chaplain in the Spanish-American War next furnish material for interesting reading. The years following, spent on the lecture platform to gather funds for his parish, planted the seed which was to ripen into the great work of Bishop Kelley's career, the Catholic Church Extension Society.

The story of the genesis and the exodus of this American missionary enterprise is told with simplicity and good humor, but the most interesting chapters are those which deal with the writer's experiences in matters more or less distantly related to Church Extension. So most readers will peruse with keenest attention the accounts of the Mexican situation, the pages devoted to the Peace Conference in Paris, those which treat of the affair of the suppressed German missionaries, and pre-eminently, the chapter bearing the significant title, " High Spot," which records the author's connexion with the settlement of the Roman Question a whole decade before the Lateran Treaty.

The autobiography ends with Bishop Kelley's appointment to the See of Oklahoma, though the book includes many previews of events subsequent to his episcopal consecration. It ends, too, unfortunately, with a pessimistic chapter on the world of to-day, written evidently

when the genial humor which guided the writer's pen throughout the preceding three hundred pages deserted him, just when it should have displayed another chapter-length of endurance.

We can recommend the volume as interesting and informing, and especially appealing to those of the clergy who are of sufficient age and experience to have had casual contact with many, in ecclesiastical life and out of it, with whom Bishop Kelley's relations were more intimate and important. Above all, the autobiography has that charm of simplicity, which is an exemplication of the writer's own conviction, thus expressed: "A good habit for an old man to cultivate is that of looking back over his life to find justification for laughing at himself. He will, of course, also find some quite valid reasons for crying over the same person. . . . Above all other virtues for the aged is the virtue of humility."

INSTRUCTIONS ON CHRISTIAN DOCTRINE. By the Rev. Nicholas O'Rafferty. Vol. I, The Apostles' Creed (1937)—Vol. II, The Sacraments (1939). Bruce, Milwaukee. Pp. 328, 336.

The importance which the Church ascribes, especially at the present day to the possession of a thorough knowledge of Christian doctrine by all her members renders most timely expository works on Catholic faith and morals. Among the many works of this nature that have been published in recent times a prominent place should be assigned to these two volumes of instructions from the pen of the Rev. Nicholas O'Rafferty, pastor of St. Edward's church, Seattle, Washington. Father O'Rafferty has given us an adaptation of the *Instruzioni* written by the Very Rev. Ildephonsus Bressanvido, O.F.M., a century ago. In content and in order the instructions are based on the Catechism of the Council of Trent. The entire course will comprise four volumes. The two already published are concerned with the Apostles' Creed and the Sacraments; the third will treat of the Commandments of God and the Precepts of the Church, the fourth, of prayer and the virtues and vices.

Each instruction presents both the dogmatic and the moral aspect of its subject. The arguments from Scripture, tradition and reason are solid and adequate. Particularly noteworthy is the detailed presentation of certain phases of Catholic belief and worship which are treated only cursorily in most catechetical works. Thus, the first volume contains two lengthy instructions on the gifts and the fruits of the Holy Ghost; and the second volume presents in fullest detail the manner of preparing for Holy Communion. A praiseworthy feature of the work is the excellent index added to each volume.

At times the author could have made greater changes from the original in his adaptation. Thus, he asserts that the Apostles are commonly considered the authors of the Apostles' Creed, and offers as

an argument a statement from the " First Epistle of Pope St. Clement to St. James the Apostle "—a work which is now known to be spurious. Moreover, more frequent references to the prescriptions of canon law, especially in the instructions on the sacraments, would be desirable.

While these instructions could be appreciated by the better educated members of the laity, they are—like the Catechism of the Council of Trent—especially adapted to aid the clergy in the preparation of catechetical sermons. Indeed, certain portions are by their nature intended only for priests, such as the instructions entitled " Refusing or Deferring Absolution " and " Signs of True Repentance ". And the priest who is sincerely anxious to provide his people with a logical and orderly series of instructions on the truths of Catholic faith will find much useful matter in Father O'Rafferty's *Instructions on Christian Doctrine*.

THE PORTUGAL OF SALAZAR. By Michael Derrick. New York: Campion Books, Ltd. 1939. Pp. ix + 168.

This every American Catholic should read in self-defence. Left-wing propagandists, who seem to have the ear of many American publishers, have managed to create an almost general impression that the corporate state of the new Portugal is opposed to all our ideas of freedom and democracy, and is " fascist ". Fascism, Dr. Derrick points out, has come to be generally and falsely used to describe any form of nationalism which will not tolerate international Communism and is regarded as vaguely synonymous with War.

The Portugal of Salazar is a Christian and corporate state. The encyclical *Quadragesimo Anno* has had a profound influence on the Constitution approved by a national plebiscite, 19 March, 1933. Parallel phrases can be cited from the two documents. Private ownership is a fundamental fact. Freedom of thought and of meeting and association, and other rights upon which liberal constitutions lay emphasis are protected. The institution of the family is recognized as " the source of the preservation and development of the race . . . the first basis of education and of social discipline and harmony." In Article XIV the Constitution declares that it belongs to the State and to local authorities " To establish taxation in accordance with the legitimate expenses of the family and to promote the adoption of the family wage." This is an extension of the principle of the living wage, and in that same Article is stated that the family and not the State school is the natural milieu of the child.

Nor has Salazar been content to leave the Portuguese Corporate State on paper. Slowly, by trial and error and patient endeavor progress is being made. The organization of industry and commerce was undertaken first. Syndicates of working-men are now fully organized, and they meet and collaborate with the organizations of employers. Ex-

tensive irrigation schemes have been undertaken to help the independent small proprietors and the *Casas dos Pescadores,* including masters and men, have been set up to help the fisher folk. As Dr. Derrick writes, " Order is being brought into the national economy by that which is inappropriately enough called a ' dictatorship '—it is a dictatorship which has declared for a policy of *laissez-faire,* but which will *laissez-faire* not isolated individuals but organized professions, autonomous corporations."

The book gives an outline of Portugal's condition under the Grand Orient " gang " and the professional politicians, and compares the present political structure. Portugal is not " fascist," because " Fascism " is something Italian. The *Estado Novo* is Portuguese, and cannot be considered an " appendage of that artificial central-European *bloc* . . . the Rome-Berlin axis ". Salazar's idea of the mission of the State is to serve, not to regiment. He is not a party politician and has never been concerned with political manoeuvres. Salazar is not the leader of a party; he is the leader of Portugal.

A really important book. It is not a large one, and whilst it is fairly well documented, it is not technical. It is a book that every priest and educated layman can read with profit.

COMMENT ETUDIER ET SITUER SAINT THOMAS. By R. P. Timothée Richard, O.P. Paris, P. Lethielleux. Pp. 224.

This introduction to the study of the theology of Saint Thomas Aquinas was completed shortly before the author's death. Those who are acquainted with modern Thomistic literature are familiar with the depth and clarity of this eminent disciple of Saint Thomas, as shown in his other works. The author manifests the same keen understanding of Thomistic doctrine, which together with his experience and knowledge of the difficulties of students as well as of the objections of critics of the scholastic viewpoint, serves him in good stead in the production of a work replete with sound advice and valuable warning. He emphasizes how necessary is a thorough grasp of Aristotelian philosophy if one is to understand theology. Indeed, as he says, it is the one thing necessary. To pass in review the various dogmas of the Church is the work of the historian, not the theologian. Not only must the student cultivate the intellectual virtues but those of the moral order as well if he is to pursue the profound speculative teaching of the Angelic Doctor. The work minimizes the too much lauded method of to-day that thinks only of the contingent and inductive and constantly insists upon the science and philosophy of the ancients that concerned itself with the necessary and laid stress upon abstraction and deduction.

The author however does not assume entirely the apologetic rôle. His chief purpose is practical. It is not a text book, but it shows the

student the way to use the best one. Students entering upon a serious study of Thomistic theology as well as those who have already made some progress in this useful and satisfying pursuit will find great profit in this work.

THE SYSTEMATIC TEACHING OF RELIGION. Rev. A. N. Fuerst, S.T.D. New York. Benziger Brothers. 1939. Pp. xviii + 507.

This book is a free adaptation of the German work, *Katechetik*. Doctor Fuerst's book contains a long and detailed history of catechesis. It is an interesting history. There have been great saints of the Church who clearly saw the urgent need of catechetical instruction, and earnestly put their minds and time to the work. This same spirit has been renewed recently, and the author describes in detail the new catechetical movement.

The spiritual care of the pre-school child is the topic of the second part of the volume. There are some general observations. These are followed by an examination of the position the priest should take in regard to children of pre-school age. It is interesting to note that the author seems to favor a judicious use of corporal punishment for the correction of bad conduct. On this matter there is a recommendation on page 178.

In part three of his book, Doctor Fuerst considers principally the Sacraments and the Sacrifice of the Mass. Actually there are chapters on Liturgy and Prayer, but the main portion of this section is devoted to instruction on the Sacraments and the Mass. Whilst it is not indicated in the introduction that other books are to follow to explain non-sacramental doctrine, one must believe that such is the author's intention. All instruction is not comprised in the Sacraments.

Doctor Fuerst is to be commended for his painstaking labor in producing his book. Especially useful are the questions proposed for study. Any catechist who uses Dr. Fuerst's book will find sound doctrine and applicable method in it.

AMERICA, LOOK AT SPAIN. By Merwin K. Hart, President, New York State Economic Council. P. J. Kenedy and Sons. New York. 1939. Pp. xviii + 254.

This book carries a ring of sincerity and personal conviction based on a mass of evidence gathered from every possible source. It is patently not propaganda, and apparently the author has no special axe to grind. A Protestant, an American, a scholar in his own right, he was nettled, as were so many others, by the conflicting reports about the Spanish Civil War, and he determined to go over and see for himself.

After an introductory chapter Mr. Hart presents a sketch of Spanish history, to provide a fitting setting for the tragic drama of two years of bitter and bloody civil war. Unfortunately, the much disputed elections of 1936 receive little clarification.

It is impossible to say whether or not the author will attain his purpose of convincing the American people of the justice of Franco's cause, of his relatively humanitarian methods of pursuing it, and the dominating influence of Soviet Russia in so-called Loyalist Spain, of the unparalleled crimes of the *Reds* committed not only at the outbreak of hostilities but continued down to the very last days of the war, of the urgent need that is America's to learn the lesson to fight now, while fighting can still avail, the monster that is Communism? The seer's gaze is not ours. But it is not difficult to imagine that those who would not be convinced will find reasons ready to hand to cover their unwillingness with the cloak of scholarly research. They will, no doubt, point to the fact that the author admittedly knew no Spanish—of course, they will blissfully forget that the same was true of quite a number of reporters, English and American, who for almost two years tried to keep up faith in the Loyalist cause; that he had but one month to give to his investigation, that he visited only Nationalist Spain, and that he had to gather his information through the aid of interpreters, etc. All of which might indeed suffice to stimulate the true scholar to discover the truth for himself. No one of these facts, nor all of them put together, necessarily militate against the honesty and truthfulness of the message.

Mr. Hart has a short but interesting chapter on the Church in Spain. On this side the sea practically all non-Catholics and many Catholics as well seemed to feel justified in claiming that the Church or churchmen in Spain must bear some portion of responsibility for allowing those conditions to grow up which favored revolutionary measures. The author, while not engaging in wild denunciations, shares this view. It is hard to dissent in the face of practical unanimity. Although not ready to enter a protest, parallel events in Germany tend to make one somewhat hesitant. Can we honestly assert that the German clergy lacked culture or leadership, or that it somehow kept the people in ignorance? Had German priests made themselves particularly odious to the laity by a show of wealth or luxurious living? Was the Church in Germany a hoarder of wealth and a fleecer of the poor? It would seem, then, that the problem of clerical responsibility is much more complex than many of us realize, and that our statements about it may stand in need of much greater caution and more convincing proof.

The author appears at his best in his chapter on Red propaganda. He adduces evidence sufficient to establish his case fairly well. Since the close of the war many secular newspapers, which had been almost violently pro-Loyalist, ran articles in the now-it-can-be-told style

admitting the force of Soviet propaganda. A real contribution, however, would have consisted in tracing the source of the misinformation. which was so consistently sent out either from the Spanish front or manufactured somewhere in the process of presenting news to the American public. No one, to our knowledge, has answered yet the challenge laid down in a radio address made by His Excellency Archbishop Mitty: somewhere, somehow, some one garbled the message.

Notwithstanding the fact that the author remains rather on the fringe of many questions the book does contain some obvious lessons. Some may feel that he is too detached and his facts too remote to stir us up to active alertness. Few will be ready to assert that he sees red everywhere.

JOHN SKELTON, LAUREATE. By William Nelson. New York: Columbia University Press. 1939. Pp. ix + 266.

This dissertation is the first full-length biography in English of the astute and sharp-tongued tutor of Henry VIII. Honored by Caxton and Erasmus as a scholar, and spurned by Pope and Puttenham as a railing mountebank, co-worker with St. Thomas More and avowed enemy of Wolsey, Parson Skelton's life was noteworthily turbulent in a turbulent time.

The book is concerned with Skelton the poet rather than with Skelton the clergyman, and is a worthwhile contribution to the study of sixteenth-century English literature. It is of interest to the priest because Dr. Nelson takes issue with the claim that Skelton was a reformer, and establishes the proof of his orthodoxy. Skelton's satire on the government of the English church, *Colin Clout,* was later used by the Reformation pamphleteers, but his denunciation of evil clergy and his opposition to the wandering preachers, or even his own apparently loose living, by no means indicated that he accepted the new heresy. He may have had a mistress, but he never defended the practice and he made no attempt to prove that it is lawful for priests to marry.

The volume gives evidence of careful and painstaking research. Dr. Nelson, moreover, does not hesitate occasionally to savor his scholarship a bit. His quotation of the mock epitaph written after the death of a Bailiff of Diss—

> Belsabub his soule saue
> Qui jacet hic, like a knaue!
> Jam scio mortuus est,
> Et jacet hic, like a best.
> Anima ejus
> De malo in pejus. Amen

gives a better insight to Skelton's character than could several pages of description. Another amusing but enlightening item is the verse written to avenge the brazenness of a sporting parson who trained his falcon on the pigeons in Skelton's church.

Book Notes

The brilliant, if somewhat erratic, friend of Saint Francis de Sales was one of those to whose authority Fénelon appealed in the course of his ill-starred controversy with Bossuet on the nature of charity. In his solid and interesting little volume, *Une Querelle autour de l'Amour Pur*, Doctor Joppin shows that this appeal was not without reason, although, in the last analysis, the teaching of Camus was by no means entirely identical with the condemned propositions in the "Maxims of the Saints". Doctor Joppin's book should be welcomed by those who are interested in the history of spiritual theology. It casts new light on the far more important matter of the later controversies which culminated in the condemnation of semi-quietism. (Paris, Beauchesne, Pp. 132.)

A Child's Grace, by Harold Burdekin, and *The Secret* by Harold Burdekin, are two beautifully illustrated volumes, the one on a child's grace before and after meals, and the other in the language of a child on the love of God for man. They are amongst the most beautiful children's volumes that have come to our hands. The illustrations are exquisite photographs made by this world-famous photographer who is also the author of the beautiful text. For the teacher of religion these two volumes will be a very powerful aid. (E. P. Dutton and Co., New York City.)

An eloquent plea for advanced clerical studies, made by the dean of the Episcopal Cathedral in Washington, is embodied in a pamphlet entitled *The Post-Ordination Training of the Clergy*. The sermon manifests a clear and lofty concept of the ministry, the service of God among men. Catholics cannot help but be pleased with the sermon as a whole, and with such striking passages as, "When the lure of the crowd is great it will enable them (God's ministers) to deal with it more as Our Lord did, if they remember they are before the crowd, not for what they may give to it or do with it, but for what God may give to it or do with it, through them." Only a few expressions, like the one in which it is said that Christian doctrine "is built up out of what men have experienced of God," are incompatible with Catholic teaching. The sermon is refreshing, a sign of renewed interest in our own country for the service of God. (The Twenty-fifth Annual Hale Memorial Sermon. By the Very Reverend Noble C. Powell, D.D., Seabury-Western Theological Seminary, Evanston, Ill., Pp. 24.)

Always sure of a welcome are the little volumes of meditations, instructions and pious exercises. The professional theologian deprecates them, but it is not difficult to believe that when they are founded on firm theological principles they accomplish more of good in the lives of men than do the fine distinctions and close reasonings of the academic theologian. An outstanding example of this type of pious literature is Monsignor Fulton Sheen's series on the Seven Last Words of our Lord. The fourth in the series, *Victory over Vice* has been placed on the market by P. J. Kenedy & Sons (New York, Pp. 107.) In this series, Monsignor Sheen considers each of the Seven "Words" from the point of view of one of the capital sins—seven in the Western Church. Treatment and style are all that can be expected of the prominent orator.

The Other Nazareth by a Sister of St. St. Joseph (Philadelphia. Peter Reilly Co., pp. xiv + 104) is a series of six short meditations on the Holy Family. The style is simple and plain, and the Holy Family is presented for imitation by those in every walk of life.

Guide for Victim Souls of the Sacred Heart was compiled by Father Joseph Kreuter for members of the Association. The object of the Association is to offer all one's prayers and good works in reparation for the outrages committed against the Sacred Heart, for the conversion of sinners and to obtain God's blessings for priests and religious. The *Guide* explains the purpose of the Association, and gives a series of instructions on the means to attain the end. (New York, Benziger Brothers, pp. xiv + 236.)

Adoro Te, translated from the French of Dom Eugène Vandeur by Clara M. Rumball, is a series of meditations taking for their inspiration the words of St.

Thomas's beautiful hymn. The meditations are written in simple language, in the fervent manner. The meditations are written under the headings, Adoration of God, Adherence to God, Confession of God, Hunger for God, Abandonment to God, Purification by God and Happiness in God. The publisher has contributed a clear type and format to add to the pleasure of reading. (New York, Benziger Brothers; pp. ix + 164.)

In his latest book, Father Hugh Blunt considers the seven sorrows of the Blessed Virgin, and adds a chapter on "Our Own Swords". It is no blessing to have too much happiness in this world, as we are likely to grow content with that, and Father Blunt brings out the Catholic teaching on the problem of suffering in the world. The book is in Father Blunt's usual popular style and promises to be deservedly popular. (New York, P. J. Kenedy & Sons; pp. 110.)

With the Divine Retreat Master, by the Rev. Joseph Schrijvers, C.SS.R., and translated by the Rev. Edwin V. O'Hara, is addressed to priests, and is well suited for the priest's private retreat. It will be valuable also for retreat masters and preachers, as many of its passages can be readily adapted for the laity. Father O'Hara has edited as well as translated, but the style is still distinctly Gallic. (Paterson, N. J., St. Anthony Guild; pp. vii + 156.)

One small volume to which no one finds objections is *The Following of Christ.* The America Press (New York; pp. xv + 269) has issued a new edition of Father Joseph Malaise's translation of the *Following of Christ* as written by Gerard Groote. A lengthy review of the volume appeared in the June 1937 issue, so it is necessary merely to note the issuance of the new edition.

In larger format but along the lines of the "little volumes of meditations" is Father Paul Blakely's *Looking on Jesus.* (New York, The America Press; pp. ix + 116.) Short, simple, practical reflexions on the Gospel read in each Sunday Mass make up its content. Appearing originally as editorials in *America* these *ferverini* received such a welcome that it was thought worth while to collect them in permanent form. Many a priest as well as layman will be delighted with Father Blakely's sermon editorials.

Those who read French will find many fine little volumes to aid progress in the spiritual life. *Paroles D'Encouragement* is a translation from the English by G. de Vaulx de Champion of Father Daniel Considine's three series of meditations. They have lost nothing of their simplicity and real power in translation (Paris, Desclée de Brouwer; pp. 183.)

Notre-Dame Des Champs by Curé Charles Chalmette is a series of thirty-one meditations; one for each day in May. The author takes an event in the life of Our Lady and links it to a particular virtue or devotion. For example, on the 15th and 16th days the subject of the meditation is Nazareth, and on one day is considered *La Prière en commun,* on the other *La Maison du Respect;* the 20th day is *Marie au pied de la Croix-L'assistance à la messe.* A splendid little book for private meditation and sermon preparation. (Paris, Beauchesne et ses Fils; pp. 238.)

Avec Dieu Toujours by the Barnabite Father Desbuquoit considers the fact and the nature of the presence of God, and how that presence can be of spiritual profit to the individual. As might be expected, the second part of the book is principally a treatise on prayer. While there is nothing startling about the treatment of the subject, the matter is clearly presented. (Paris, P. Lethielleux, pp. 138.)

Mon Cure Parle (Vol. III) by Father Henry Chevré concludes the series of fifteen minute sermons and covers from the Assumption to Advent. Prefacing each sermon is an outline. The style is not difficult, and the priest who is willing to hark back to his seminary French will find a number of sermon suggestions in Father Chevré's little books. (Paris, Beauchesne et ses Fils; pp. 159.)

The Sentinel Press (New York; pp. ix + 323) publishes *The Real Presence,* a volume of meditations or readings for the Holy Hour from the writings of Blessed Peter Julian Eymard. The book covers a wide range of subjects, dealing

particularly with the Holy Eucharist, and is equal in every way to the other volumes of Blessed Peter Eymard that have been published by the Sentinel Press.

The Rev. Matthaeus Conte a Coronata, O.M.C., author of *Manuale Practicum Juris Disciplinaris et Criminalis Regularium*, is well known to canonists. His books are readable and generally reliable. From his experience in the class room and in the curia, he brings to his readers sound judgment and ability to present and solve a problem. This book of his is a special treatise that will appeal mostly to members of the Capuchin Order. There is a suitable commentary on disciplinary and criminal procedure, besides a satisfactory list of formulae which can be used in processes. A study of the commentary will, moreover, be useful for all canonists. It is good to have a commentary on particular statutes, for by comparison one can learn the meaning of procedural law in the Code.

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